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PUBLICATIONS

OF

The Colonial Society of Massachusetts

TRANSACTIONS

1895–1897

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A.W. Elson & Co. Boston

B. A. Gould

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PUBLICATIONS

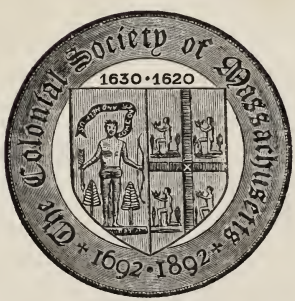
OF

The Colonial Society of Massachusetts

VOLUME III.

TRANSACTIONS

1895–1897



BOSTON
PUBLISHED BY THE SOCIETY
1900

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PREFACE.

THIS volume contains a record of the Transactions of the Society at its Stated Meetings from January, 1895, to April, 1897, and of the Council at two Special Meetings. Although it is a continuation of a similar record in Volume I., it has been designated as Volume III. of the Society's Publications, because Volume II. was reserved for the Commissions and Instructions of the Royal Governors of the Province of the Massachusetts Bay. The completion of that volume has been delayed by various causes, chief among which is the generous offer of our associate Mr. Abner Cheney Goodell to add to his original gift to the Society copies of the Commissions of Vice-Admiral issued to the several Royal Governors of New England, — a series of important documents but little known even to historians. These papers have been received from England and are now in form for the press, and it is confidently expected that the volume which is to contain them will be ready for distribution in the near future.

The volume now offered to the Society records an extraordinary mortality among our Fellowship. As will be seen, tributes have been paid to our first President, Dr. Gould, and to our first-elected Vice-Presidents, Judge Lowell and the Hon. Leverett Saltonstall, beside General Walker, Governor Russell, Judge Austin, the Hon. Martin Brimmer, Dr. Daniel Denison Slade, Mr. William Gordon Weld,

Mr. George O. Shattuck, the Hon. Darwin E. Ware, the Hon. John F. Andrew, and Dr. Edward Wigglesworth.

Memoirs of five of our associates are also included in this Record, — of Benjamin Apthorp Gould, by S. Lothrop Thorndike; of the Hon. Martin Brimmer, by George S. Hale; of the Hon. John F. Andrew, by Edmund March Wheelwright; of Mr. William Gordon Weld, by Joseph Henry Allen; and of Dr. Edward Wigglesworth, by Henry P. Quincy.

Many valuable papers and communications find a place in this volume. Among these may be mentioned Mr. Andrew McFarland Davis's discussion of the Land Bank and our Provincial Currency, and his elaborate paper on the suit of Frost *v.* Leighton; Professor Goodale's paper on the Early New England Plants; a Letter of President Dunster containing new and important facts concerning Harvard College and its first Building, communicated by Mr. Henry H. Edes; Mr. Edes's correspondence with Dr. Bourinot concerning Pierre Boucher de la Broquerie; Mr. Henry D. Sedgwick's paper on Robert Sedgwick; Mr. Robert N. Toppan's paper on The Failure to Establish an Hereditary Political Aristocracy in the Colonies; Mr. Albert Matthews's discussion of the use at American Colleges of the word "Campus"; and Mr. Appleton P. C. Griffin's paper on a hitherto unknown daughter of Dr. Franklin.

Interest will also be felt in the movement to increase the Permanent Funds of the Society, the initiation of which is recorded in the following pages.

Through the generosity of our associate Mr. Frederick Lewis Gay, the Committee of Publication is able to insert a fine photogravure of Admiral Knowles to accompany Mr. Noble's paper on the Libel Suit of Knowles *v.* Douglass. The plate has been engraved expressly for the Society from a rare mezzotint belonging to Mr. Gay, and at his expense.

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The Committee would express its gratitude to Mr. Gay for this acceptable gift; to President WHEELWRIGHT for the portrait of Martin Gay and the Plans of his estate in Union Street, Boston; to Mr. SAMUEL T. SNOW for the use of the etched plate of a view of the Office of the Revere Copper Company in 1840; and to the families of those deceased members whose Memoirs appear in this volume for the portraits which accompany them.

The Index has been made by Miss ELIZABETH H. CONNOLLY, whose qualifications for the work are amply attested by the result of her labors, — more especially in the digest which has been made of the several Papers and Memoirs. The Committee has enhanced the value of her work by a fuller specification of persons and places.

For the Committee,

JOHN NOBLE.

BOSTON, 27 December, 1899.

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OF

The Colonial Society of Massachusetts.

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MEMBERS DECEASED.

Members who have died since the publication of the preceding volume of Transactions, with the Date of Death.

Resident.

Hon. William Eustis Russell, LL.D. . . .	16 July,	1896.
Benjamin Apthorp Gould, LL.D., F.R.S. .	26 November,	1896.
Hon. Francis Amasa Walker, LL.D. . . .	5 January,	1897.
George Otis Shattuck, LL.B.	23 February,	1897.
Hon. Darwin Erastus Ware, A.M. . . .	2 April,	1897.
Hon. John Lowell, LL.D.	14 May,	1897.
George Martin Lane, LL.D.	30 June,	1897.
Hon. George Silsbee Hale, A.M.	27 July,	1897.
Francis Vergnies Balch, LL.B.	4 February,	1898.
Rev. Joseph Henry Allen, D.D.	20 March,	1898.
Philip Howes Sears, A.M.	1 May,	1898.
Sigourney Butler, LL.B.	7 June,	1898.
Henry Parker Quincy, M.D.	11 March,	1899.
Samuel Johnson, A.M.	13 August,	1899.

TRANSACTIONS

1895–1897

TRANSACTIONS

OF

THE COLONIAL SOCIETY OF MASSACHUSETTS.

JANUARY MEETING, 1895.

A Stated Meeting of the Society was held in the Hall of the American Academy of Arts and Sciences on Wednesday, 16 January, 1895, at three o'clock in the afternoon, the President, Benjamin Apthorp Gould, LL.D., in the chair.

After the Records of the December Meeting had been read and approved, the Honorable Joseph Hodges Choate was elected an Honorary Member.

Mr. Francis H. Lincoln communicated the following additions to the list of Historical Societies in Massachusetts:[1] —

---

[1] Mr. Lincoln also gave the following information: —

The Daughters of the Revolution, Commonwealth of Massachusetts, was incorporated 28 February, 1894.

The Hills Family Genealogical and Historical Association, Boston, was incorporated 6 July, 1894. Its purposes are: The collection, compilation, and publication of such data and information as may be obtained concerning the genealogy and history of the Hills family.

The Naval Order of the United States, Commandery of the Commonwealth of Massachusetts, Boston, was incorporated 14 December, 1894. Its purposes are: To transmit to latest posterity the glorious names and memories of the illustrious naval commanders and their companion officers in arms, who are identified with many of the principle (*sic*) battles and famous victories of the several wars in which the United States has participated, and which were fought and achieved by the naval forces; to encourage research and publication of data pertaining to naval art and science, and to establish a library in which to preserve all documents, wills, books, portraits, and relics relating to the Navy and its heroes at all times.

THE CLINTON HISTORICAL SOCIETY.

This society was organized 10 September, 1894. The objects are defined in the Constitution as follows: "The object of this society shall be the awakening of an interest in local history; also the collection of papers, documents, and other articles relating thereto, and of specimens of natural history connected therewith, the preserving of records of passing events that may become of value in the future, and the securing of a safe repository for the same."

THE NANTUCKET HISTORICAL ASSOCIATION.

This association was incorporated 9 July, 1894. Its purposes are defined to be "to collect and preserve historical relics, documents, pictures, books, etc."

THE GROTON HISTORICAL SOCIETY.

This society was incorporated 11 May, 1894.

Mr. ANDREW MCFARLAND DAVIS read the following paper: —

PROVINCIAL BANKS: LAND AND SILVER.[1]

FOR a proper appreciation of the state of public opinion which made possible the extraordinary experiment in economics called the Land Bank or Manufactory Scheme, some knowledge is requisite of the struggles for a circulating medium through which the Colonists had passed during their century and a little over of occupation of the Massachusetts Bay. Since opinions upon topics of this sort were largely dependent in New England upon the condition of knowledge in the mother country, it would be interesting

[1] The sources of authority for this story of the Land and Silver Banks are mainly to be found in the Massachusetts Archives and the Suffolk Court Files. [A Calendar of these documents by the author of this paper will be found in Volume iv. of the Publications of this Society.] Occasionally the thread of the narrative prior to 1743 is maintained by use of facts furnished by a contemporary pamphlet entitled, —

An Account of the Rise, Progress, and Consequences of the two late Schemes commonly call'd the Land Bank or Manufactory Scheme and the Silver Scheme, in the Province of the Massachusetts Bay. Wherein the Conduct of the late and present G——r during their Ad—ns is occasionally consider'd and compar'd. In a letter from a gentleman in Boston to his Friend in London. Printed in the year 1744.

to study the cause of the sluggish growth there of knowledge of banking, to seek for the reason why an intelligent people were so slow in realizing the potency of the great banks on the Continent in stimulating the commercial prosperity of the cities in which they were located, and to point out certain coincidences and connections in the propositions submitted here and in England by men of speculative temperament to relieve the supposed need of a circulating medium through the establishment of banks of issue. However interesting such an examination might prove, it would be entirely impossible to compress it within the limits of a paper which should attempt to give even an outline sketch of the history of the Land Bank of 1740.

If the subject be examined from the standpoint alone of the economist, the material at command, especially if we should include a review of contemporaneous opinions, is adequate to fill the time at our disposal. If treated in relation to the bearing of its history upon political opinions, its enormous importance would compel the amplification of details to an extent that would in itself furnish abundant occupation for the time ordinarily assigned to a paper at our meetings. If we should leave to the student of economics the study of his specialty, and to the historian the task of measuring the influence of the events connected with the closing of this affair upon the minds of the people of Massachusetts Bay, we should still find that any attempt to give in one afternoon a detailed analysis either of the legislation connected with the closing of the Land Bank or of the litigation in consequence thereof would fail for lack of time.

Under these circumstances I am compelled to make a selection from this superabundance of material; and, taking into consideration that very little has been published in available form from which can be obtained a coherent narrative of the events connected with the formation and the arbitrary closing of this so-called bank, I have thought it would be wise for me to confine myself to a simple chronological statement of these events, preceded by a brief introduction which will tend to show the circumstances under which the people of this Province thought there was need for relief of this general character, and which will set forth the possible influence which previous experience may have had in leading men of fair intelligence to the conclusion that such an ill-founded scheme might succeed.

The first settlers of Massachusetts brought with them but little coin, and for a long time all transactions were by barter. The accounts of Harvard College show that for many years term-bills were paid in produce, live-stock, meat, and occasionally with curious articles raked up from the family chests of student debtors. The experiments with bullets and wampum as a legal currency in a limited way are known, and it is also familiar to all that corn was receivable in payment of country rates,[1] and that notes were frequently made payable in commodities.

The fact that the thoughts of our people were from time to time during the seventeenth century directed toward the establishment of some sort of bank has been fully demonstrated, and the drift of public opinion which led up to the attempted organization of a bank of issue in 1686, under the approval and with the sanction of the Council, for the ostensible purpose of loaning its bills upon real and personal security and imperishable merchandise, has also been shown by the careful collation of facts, with minute observation and patient industry, from numerous recondite sources of authority.[2] It is not known why this scheme, thus started under government patronage, was abandoned before it had accomplished any of its contemplated objects; but in 1688, when it was laid upon the shelf, the promoters still had in possession the printing press with which they had purposed to manufacture their paper currency.[3] It is pos-

[1] "In our most happy times (as in our fondness we call them) we allowed our Governor an Hundred per annum &c and when the Salary was changed from Corn-Specie to money, there was a muttering and grumbling in the country, as tho' they were going into a mutiny." — (A Word of Comfort to a Melancholy Country or the Bank of Credit erected in the Massachusetts Bay, fairly defended by a discovery of the Great Benefit, accruing by it to the whole Province; with a remedy for recovering a Civil State when sinking under desperation by defeat on their Bank of Credit. By *Amicus Patriæ*. Boston, 1721, p. 9.)

[2] By Dr. J. Hammond Trumbull. See Proceedings of the American Antiquarian Society, October, 1884, p. 266 *et seq.*

[3] Felt, alluding to this Bank, says (Historical Account of Massachusetts Currency, p. 47): "How long or how far the preceding Corporation continued their operations, we are unable to tell." It seems to me that John Blackwell's letter of 26 July, 1688 (Massachusetts Archives, cxxix. 63), which opens, "I perceive you have declyned the concerning yourselves any further in the Bank affairs," is conclusive enough. It appears from this letter that the press was actually set up and used "for tryall of the plates & printing off some bills."

sible that the question of a government issue of notes may by that time have been under consideration. It was only two years after the final abandonment of the proposed bank that the emergency arose which brought about the first emission of these notes. They were familiarly known as Colony or Old Charter Bills, and were put forth to pay the expenses of Phips's unfortunate expedition against Canada. Their amount was limited in 1691, and they were retired in 1692; but some of them were from year to year reissued, even under the Province Charter, until 1702, when the first emission of Province Bills was made. Their appearance seems to have suggested to tradesmen that in a similar way they too might meet their obligations, and perhaps contribute to the circulating medium; for about this time we begin to hear of Shop Notes, which apparently were promises to pay in goods, issued by tradesmen. For a time these Shop Notes worked great hardship to laborers and others who were by their circumstances forced to receive them,[1] but their limited circulation prevented them from being a serious element of disturbance to the currency.

The scarcity of money, which had led the Council, in 1686, to favor a bank of issue which should effect loans, again attracted the attention of legislators in 1701, and the matter being brought before the General Court, a committee was appointed to find out some suitable means to remedy the evil. This committee recommended, among other things, the establishment of a bank of credit; but the section of their report in which this recommendation was incorporated was rejected.

Meantime the emission of government bills, which originally contemplated only the furnishing of a temporary expedient, had gone on increasing in amount from year to year. It was the custom to pledge as security for the redemption of the bills certain specific taxes of specially designated years. By 1714 the income of the Province from taxation was pledged, either wholly or in part, each year for six years to come. It is needless to say that as time went on the issues increased, and the time for which the revenue

[1] The caulkers, in 1741, alleged that they had for many years "labored under great inconvenience, and had suffered much damage wrong and injury in receiving their pay for their work, by notes on shops for money or goods, and thereby had greatly impoverished themselves and families" (News-Letter, No. 1926, 19 February, 1741).

of the Province was thus anticipated became longer. Each bill was in form a certificate by a committee of the General Court to the effect that it would be received as so much money in public payments. Inasmuch as some of the bills in circulation could not be received by the Province for several years to come, it was natural that all should feel the effects of this discredit. This fact alone would have caused them to depreciate, even if the amount then in circulation had been properly proportioned to the needs of the community. The Province Bills and the Bills of the neighboring government in circulation in the Province had by that time driven all the gold and silver out of circulation, and much of it out of the country. The depreciation and distrust of the bills was sufficient to impair their efficacy, and to cause a clamor for more circulating medium. The remedy was supposed to be more paper money, and this time the proposition came from outside the legislature.

In 1714 an attempt was made to secure from the General Court authority to organize a private bank of issue. A pamphlet which had been published in London in 1688 setting forth a scheme for a bank, and rehearsing a number of arguments in its favor, was reprinted in Boston.[1] It was in substance a proposition for a partnership to emit bills on security, to be supplemented by obtaining the signatures of citizens to an agreement to receive such bills in trade. It was stated that the proposed Boston scheme differed in some of its details from the plan set forth in the pamphlet, but that in the main the two projects were identical.

The application of the promoters of this scheme for the support and approval of the Government aroused a spirit of bitter opposition, which manifested itself not only within the limits of the General Court, but found expression elsewhere. To forestall the argument that the bills thus proposed to be issued were needed as a circulating medium, the enemies of the scheme introduced an Act authorizing the Province to furnish Province Bills to citizens, on security of real estate. The two plans came to be designated the

[1] A Model for Erecting a Bank of Credit with a Discourse in Explanation thereof Adapted to the Use of any Trading Countrey, where there is a Scarcity of Moneys: More Especially for his Majesty's Plantations in America. . . . London: Printed in the year 1688. Reprinted at Boston in New-England in the Year 1714.

See also Proceedings of the American Antiquarian Society, October, 1884, New Series, iii. 302, note E.

Private Bank and the Public Bank; and the General Court was so completely converted to the Public Bank that it not only authorized the issue of £50,000 in Province bills to be loaned for five years on real security, but it also passed an order forbidding any company or partnership from emitting bills of credit as a medium of exchange or trade without its consent and approbation. The positive stand thus taken by the Government in 1714 did not, however, put an entire stop to the discussion; for we have evidence that the matter was still being agitated in December, 1715, through a town meeting then held in Boston, at which the question was submitted whether the influence of the town should be given in favor of a public or a private bank. The agitation could only have been prolonged at this period by those who favored the private bank, and it is clear that they were signally defeated, since Boston not only voted to favor a public, but even went to the extent of placing on record the town's disapproval of a private bank.[1] Hutchinson says: "The controversy had an universal spread, and divided towns, parishes, and particular families."

The £50,000 in Province Bills for loans in 1714 were followed by a similar issue of £100,000 in 1716, to be loaned for ten years. In 1721 £50,000, and in 1728 £60,000 were distributed among the towns for use in the same way, provision being made for their being called in by subsequent tax levies. All of these bills were receivable with a five per cent premium in favor of taxes; yet, by 1720, notwithstanding the large number of bills which still remained in circulation, it was found necessary to make provision for the receipt of commodities in the adjustment of taxes.

In 1733 there was much discontent at the situation. Massachusetts and New Hampshire were restrained by royal instructions in their capacity to emit bills, but Rhode Island had full power to float them at will. The bills of the latter Colony flowed into Massachusetts; and when in July of that year an issue of £100,000 of them was made, for loans at five per cent, a number of Boston merchants entered into an agreement with each other not to receive these bills in trade. As an offset to this emission, and for the purpose of driving the Rhode Island bills out of the market by filling the gap which they were expected to occupy, these merchants

[1] Boston Record Commissioners' Reports (Town Records, 1700–1728), viii. 115.

organized a company, and issued £110,000 of their own notes, redeemable in ten years in silver at 19*s.* per oz.,[1] the bills resting for their security solely upon the solvency of the individuals composing the company. These bills were known as Merchants' Notes; and, as silver rose rapidly shortly after their issue, in consequence of large emissions of paper money by the Province of the Massachusetts Bay, the Merchants' Notes, being payable at a specific rate, were hoarded, and disappeared from circulation. The confidence which the public thus showed in these notes induced some New Hampshire merchants to make a similar attempt in 1734. Their notes bore interest at one per cent, and were payable in bills of the several Colonies, in silver, in gold, or in hemp at Portsmouth prices, in 1747.[2]

In 1737 there was a simultaneous issue in Massachusetts of two classes of Province Bills, one being identical in form with those which were already in circulation, while those of the other class stated that they were to be received on the basis of twenty shillings for three ounces of silver, troy weight. Bills of these forms were for a time thereafter distinguished under the titles of "old tenor" and "new tenor." The latter are, however, after 1741, sometimes designated "middle tenor bills." The old bills were received for all public dues. In the middle tenor bills import or tunnage dues were excepted;[3] while the last tenor bills, which were issued at

[1] The notes are generally described in the language used in the text. In a pamphlet entitled "The Melancholy State of the Province considered in a Letter from a Gentleman in Boston to his friend in the Country, . . . printed in the Year 1736," it is stated (page 2) that "the first proposal was to make one hundred thousand pounds in notes to be paid to the Trustees of the Bank in ten years in silver at Twenty shillings per ounce, the Silver to remain in the Bank until the Ten Years were expired." The writer goes on to say that they were "perswaded to alter the Scheme and agree to have the Silver drawn out at three periods viz. three tenths at the end of three years, & three tenths more at the end of other three years; and the remaining four tenths at the end of the tenth year."

[2] These notes are described in chapter 21, Province Laws 1734–1735 (Province Laws, ii. 743). The fact that they bore interest is stated in the Report of the Board of Trade to the Privy Council (*Ibid.* ii. 747).

[3] The new tenor notes were originally issued in 1741 upon the basis of twenty shillings for three ounces of coined silver, troy weight. In 1744 there was a change in the portion of the note defining the value at which the notes would be received in the Treasury. Bills under this new form were still receivable in

one valuation in 1741 and at another in 1744, were to be accepted in all payments in the treasury. The old tenor bills were issued in 1736 on the basis of three to one of the new tenor. Old tenor bills were therefore receivable for public dues at the rate of twenty shillings for the ounce of coined silver. Their discredit in the market was even greater than the amount recognized by the Government. Hutchinson quotes silver at twenty-seven shillings just after the issue of the Merchants' Notes in 1733, and says it remained about the same rate for several years, when it took another jump. We can perhaps trace the movement if we look forward to an order passed by the General Court in 1742 to the effect that one pound of the then newly emitted bills should be received as the equivalent of four pounds old tenor, or one pound six shillings and eight pence new tenor. It is obvious from this order that the new tenor form had not fulfilled its purpose, but that Government paper had reached such a discredit that in one and the same document three rates were prescribed at which different issues should be received. In the final redemption of the bills they were grouped in two classes, all after the first form being placed upon the same level.

A part of the discredit of the Government bills was due to the redundancy of paper money occasioned by the circulation of notes of neighboring colonies. The first step towards the correction of this evil was taken in 1738, by the passage of an Act restraining the circulation of certain bills of the neighboring colonies. Other Acts of this sort, more sweeping in their character, were afterwards passed.

In 1739 John Read of Boston submitted a proposition to the General Court for a bank of issue based upon a twenty per cent fund of silver.[1] No action was taken upon this proposition.

Such was the state of the currency at the end of the year 1739, and such had been the experience of the Province in reaching this

all payments to the Treasury, but the basis of valuation was reduced to two ounces, thirteen pennyweights, and eight grains of coined silver, troy weight.

Douglass says that they were known as old tenor, middle tenor, new tenor first, and new tenor second. He adds that the latter, although about twelve per cent worse than the new tenor firsts, passed indifferently among the people at the same value. (A Summary, Historical and Political, of the first Planting, progressive Improvements, and present State of the British Settlements in North-America. . . . By William Douglass, M.D., i. 493.)

[1] Massachusetts Archives, cii. 113.

distracted condition of affairs. There was in circulation an amount of Province Bills and bills of the adjoining governments, more than adequate, if current at par, to furnish a medium for trade. Yet so great was the depreciation that provision had to be made in each Tax Act for the reception of commodities in the adjustment of taxes. The only bills which had apparently held their own were the unsecured Merchants' Notes which have already been described.

At the session of the General Court begun on the fifth of December, 1739, and continued in the month of January, 1740, a scheme was presented by John Colman and three hundred and ninety-five others for emitting bills secured by real estate, which were to serve as a medium for trade. In submitting the list of subscribers to this project, the promoters called attention to the small size of the individual subscriptions, and stated that they had acted in the matter by advice and persuasion, being desirous to interest many in the scheme. Hutchinson, treating of the same point, says that the greater part of those who were interested in this scheme, as well as of those who were concerned in the proposed bank in 1714, were men of small means.

John Colman, whose name headed the list of subscribers, was one of those who had been interested in the similar project in 1714, which was then called the Private Bank. He had in 1720 published a pamphlet in which he stated that it would be many years before a return to a specie basis could be expected; and as a temporary remedy he suggested a bank which should emit bills on real security, the loans to bear six per cent interest, and the surplus revenue above expenses to be invested in silver and held until the profits should amount to the original sum emitted.[1] He claimed to have had some correspondence with Governor Belcher on the subject of the scheme which he now proposed, and had for some time been at work endeavoring to interest people in its favor. On the tenth of March, 1740, a broadside was issued, in which it was stated that in order to redress the distressing circumstances under which the Province labored for want of a circulating medium, it was proposed

[1] The Distressed state of The Town of Boston once more considered, And methods for Redress humbly proposed. With remarks on the pretended Countryman's Answer to the Book, entitled The Distressed State of the town of Boston &c. With a Schæme for a Bank Laid down: And methods for bringing in silver money, proposed. By John Colman.

to set up a bank on land security, no person to be admitted but such as dwelt in the Province and had real estate therein. It was announced that on certain days a committee would be in session at the Exchange Tavern in King Street, to receive subscriptions. The scheme when analyzed may be briefly stated as follows: Subscribers to a so-called stock of £150,000 simply agreed to borrow a certain amount in bills of the company. Their voice in the affairs of the company was determined by the size of the subscription. The only payment which was required to be made was forty shillings on each thousand pounds, two-tenths of one per cent of the loan, for organization expenses. Each subscriber was to furnish satisfactory mortgage security for his loan, on which he was to pay interest at the rate of three per cent per annum, and the principal was to be paid in twenty annual instalments of five per cent each. These payments were to be made in Manufactory Notes, or in hemp, flax, cordage, bar-iron, cast-iron, and certain other enumerated commodities. There were provisions as to the organization, and the annual meeting; and a clause which provided that loans not exceeding one hundred pounds might be made on personal security.

The bill which it was proposed to emit was originally printed in the broadside as follows: —

"Twenty Shillings.

"We promise for ourselves and Partners to receive this Twenty Shilling Bill of Credit as so much Lawful Money in all payments, Trade and Business.

"Boston, etc."

The words "Boston, etc." were then marked out, and the following words written in: —

"and after ye expiration of twenty years to pay ye possessor ye value thereof in manufactures of this Province.

"Boston, etc."

The thirteenth article in the prospectus required each subscriber to sign an instrument in which he agreed to indemnify the signers of the notes.

The crudeness of this whole proceeding finds no better illustration than in the proposition to emit a note which contains no

agreement to redeem; nor was the document much improved by the words which were added in writing. As a matter of fact the note which was actually issued was signed by the Directors, and read as follows: —

"We jointly and severally promise for ourselves and partners to take this bill as lawful money at six shillings eight pence per ounce in all payments, trade, and business, and for stock in our treasury at any time; and after twenty years to pay the same at that estimate on demand to Mr. Joseph Marion or order in the produce or manufactures enumerated in our scheme, for value received."

No provision was made in the prospectus for the use by the company of any of its bills in trade. It is stated, however, that in the articles as finally settled £10,000 were allowed as a sum to be thus employed, and the accounts of the company show that their agent entered upon numerous mercantile ventures.

The Company was properly designated by the Governor "a scheme for emitting bills or notes," and by the Committee of the General Court a projection "for making and emitting notes of hand as a medium of trade." It had no capital stock, and the only provision for any possible fund to be held as a security for the bills is to be found in the section which provides for the distribution of profits.

I have called attention to the fact that in 1720, Colman had published a scheme for a bank, in which he proposed to create his capital out of the reserved profits arising from the business. A similar proposition is to be found in the tenth article of this prospectus, which declares that there shall be an annual dividend, "provided always that in all such dividends care shall be taken that there still remain in the stock double the principal paid in from time to time as aforesaid."

It is obvious that it was possible for the mortgage loans of the Land Bank to be paid off entirely in commodities, thus leaving the notes afloat without other security than was afforded by the partnership. It may therefore seem strange that the opinion should have been held by any number of men that the notes under such circumstances could have obtained circulation, but it must not be overlooked that at that very time the Merchants' Notes were held at a premium of thirty-three per cent over Province Bills. The

cause for this lay in the fact that they were redeemable at an expressed rate in silver, and that perfect confidence was felt in the solvency of those who issued them. The conditions of the two experiments were not parallel; nevertheless, this premium evidently inspired the belief that a note issued by a company without capital, which was by its terms not redeemable until twenty years after date, and was then payable in commodities, would find circulation in the community. A part of this confidence is unquestionably to be found in the numbers already interested in the scheme, whose example and enthusiasm brought in new converts daily, and a part is perhaps due to the fact that people were accustomed to pay their taxes in commodities. The rate also at which the commodities were convertible, according to the terms of the amended note, was a favorable one.

As early as 1720 a pamphleteer had suggested that the Province should organize a bank of this sort, and should loan Province Bills for terms of twenty-one years on security of lands, or merchandise.[1] Twenty annual payments, beginning the second year, at the rate of six per cent per annum, were to wipe out all claims for principal and interest. Such payments were to be made in hemp, flax, turpentine, pitch, tar, rosin, fish-oil, whalebone, or any other commodity that would prevent importation, or that was good for exportation, especially what the Crown and Nation of Great Britain encouraged. It was quite likely that Colman obtained from this pamphlet the idea which converted his Land Bank of 1714 into the Land Bank and Manufactory Scheme of 1740, — the encouragement of local industries, and the prevention of imports being elements in the scheme which appealed to the populace. Apart from the experience that the community already had in the use of commodities in the adjustment of taxes, they had seen the New Hampshire Merchants' Notes of 1734, which were not payable till 1747, and which might then be paid in hemp at Portsmouth prices, circulate so readily that legislation was necessary to drive them out.

The peculiar form of the note as originally printed in the prospectus may have been the outcome of the use of Province Bills, which were not in the form of promises to pay.

[1] Some Proposals To benefit the Province, — a tract without a titlepage but with these headlines on page 1. At the end, on page 15, is Boston: Printed for and Sold by Benj. Eliot, at his Shop below the Town-House. 1720.

The activity which Colman displayed, the number of persons whom he had interested in his scheme, and the certainty that he would attempt to put his notes on the market aroused a powerful opposition. A number of Boston merchants formed an association, afterwards known as the Silver Scheme, the purpose of which was to issue bills, which, like the Merchants' Notes of 1733, should be on a silver basis.[1] It is not clear when the change which I have pointed out in the notes of the Land Bank, placing them on the basis of the then par value of silver, was adopted. It is quite likely to have been a counter thrust, induced by the superior attractiveness of the currency offered by the silver men, and adopted after the promulgation of that scheme. The notes of the Silver Scheme were drawn payable to Isaac Winslow, and were signed by the Directors. They ran for fifteen years, and were then redeemable at the rate of twenty shillings per ounce for silver. Meantime the Directors promised to receive them in all trade and business as follows: —

In 1741, an ounce of silver at the rate of 28*s.* 4*d.*
" 1742, " " " " 27*s.* 9*d.*
" 1743, " " " " 27*s.* 2*d.*,

and so on, with an annual reduction of seven pence in the rate of silver till it reached twenty shillings in 1755, the date at which the notes were redeemable. Issued at the current rate of silver, the sliding scale of appreciation which they contained was the equivalent of a low rate of interest. There was one feature connected with them which does not appear on the face of the notes. The Directors agreed among themselves to exchange the silver bills at any time for common current notes, on the basis of the scale of appreciation given in the notes, and at a later date so amended the article of their Scheme containing this agreement that any possessor of silver bills could enforce it by legal process.

It will be observed that the proposed limit to the loans of the Land Bank was £150,000 in lawful money. Each twenty-shilling

[1] March 18th, [1740.]. The Compy for Merchts notes redeemd p. silver [in] 25 yrs., carrying 3 per cent interest, meet, signed, and chose their Director at Boston. (The Diaries of Benjamin Lynde and of Benjamin Lynde, Jr., Boston, 1880, p. 161).

Although the description is inaccurate, this can only refer to the Silver Scheme.

Land Bank note, if rated according to its own terms, in silver at 6*s.* 8*d.* per ounce, was worth more than four times as much as the twenty-shilling note of the Silver Scheme, redeemable in silver at the rate of 28*s.* 4*d.* per ounce. The £120,000 of silver notes to be emitted would therefore represent in lawful money on the day of their issue less than one fifth of the proposed issue of the Land Bank.

One hundred and six Boston merchants, headed by Edward Hutchinson, subscribed the articles of the Silver Scheme. Their combined subscriptions exceeded the amount proposed to be issued, and were cut down to keep within the limits of the proposed plan. When the Scheme was matured, they also applied to the General Court for its approval and sanction.

The lines of the fight were now squarely drawn, and a committee of the General Court was appointed 18 March, 1740, to "investigate the several projections for emitting notes." This committee reported adversely to the Land Bank, but recommended that the Silver Scheme be referred to the next session. The Council favored the recommendation of the committee, and it would have been adopted but for the action in the House, where it was voted to refer both schemes to the May session, both companies meantime to be prohibited from issuing notes. The Council concurred in this, and on the fourth of April the Governor issued his proclamation forbidding the projectors of both schemes to issue notes or to proceed further until the May session of the General Assembly. This session opened 28 May, at which date the restrictions imposed by the order of the General Court expired by limitation, and no obstacle stood in the way of the consummation of either project, provided the promoters chose to proceed without the sanction of the General Court.

The situation of affairs at this time was the same as at the last session. The Governor and Council opposed the Land Bank, and favored the Silver Scheme. The House favored the Land Bank, but could not consistently oppose the Silver Scheme. Both propositions were laid before the House 4 June, and both were laid upon the table. On the sixth the House took the Land Bank scheme from the table and heard arguments in its favor. On the same day a petition to the Governor and Council and House of Representatives, headed by Benjamin Gerrish, and signed by a number of influ-

ential Boston merchants, setting forth the pernicious tendency of the Land Bank, the bills of which from their nature were of no determinate value, and praying the assembly in its great wisdom, justice, and goodness to discountenance and suppress so great a mischief, was presented and read in the House. Further consideration of the Land Bank was then postponed to 18 June.

The Council, realizing that the House of Representatives was proceeding in an independent manner in the consideration of the question at issue, and that its action would be friendly to the Land Bank, voted, 12 June, to appoint a joint committee to which both schemes should be referred. The House concurred, and the members of the joint committee were named. Notwithstanding this action on the part of the House, no progress was possible in this committee, as the members of the committee appointed by the House refused to meet with those appointed by the Council.

On the fifteenth, several citizens of Ipswich presented a petition to the General Court headed by the name of John Choate, in which they argued in favor of the Land Bank, and prayed that it might be patronized, encouraged, and assisted.

The inaction of the joint committee to which the two schemes had been referred, through its incapacity to hold meetings, deprived each side of the fruits of a complete victory. No concerted action could be secured by the Council, but independent action by the House was prevented so long as it should continue to recognize the reference to the joint committee. On the whole, the gain was on the side of the Council, as inaction on the part of the House was one of the things that the Board was after. The House, therefore, resolved to cut the Gordian knot, and regardless of parliamentary rules, to resume consideration of the Land Bank scheme, while both propositions were still nominally before the joint committee. On the eighteenth of June this action was taken, and on the nineteenth, by a vote of fifty-nine against thirty-seven, the House resolved that the persons concerned in the said scheme should not be forbidden to issue bills or notes of hand in pursuance of the same.

The merchants of Boston, alarmed at this action of the House, procured signatures to a new petition against the Land Bank, which they presented at the Council chamber, great numbers of them being present on that occasion.

On the twelfth of July this session ended, and on the seventeenth, Governor Belcher issued a proclamation in which he recited the various petitions which had been presented to the Council against the Land Bank, and cautioned his Majesty's good subjects against receiving or passing the notes, saying that they tended to defraud men of their substance, and to disturb the peace and good order of the people. Notwithstanding this, the promoters of both schemes proceeded to organize, and by 1 August the Directors of the Silver Scheme began to issue their notes.

The next session of the Assembly began on the twentieth of August, and ended 12 September. On the last day of the session the Governor recommended that an inquiry into the character of the two schemes be prosecuted by a committee of the General Court, during recess, and that in the mean time the projectors be prohibited from proceeding further without leave from the General Court. The House refused to appoint such a committee, either with or without the prohibition from further proceedings.

The contest between the Council and the House of Representatives had attracted public attention, and the effect upon the Land Bank had evidently not been to its disadvantage. On the thirtieth of July, when the partners met at the house of James Jarvis in Roxbury and chose their officers, the names of upwards of eight hundred subscribers could be counted on their list. The pronounced sympathy of the House, if it had not secured favorable action in their behalf, had at any rate left matters in such shape that they could proceed with the development of their scheme without fear of interference. The fact that six of the leading members of the House were Directors in the Land Bank, and that many of the members were subscribers, was a guarantee for the future.

In 1720 Colman had stated in his pamphlet that it would be hopeless to undertake such a project without the sanction and support of the Government; yet on the nineteenth of September, 1740, the mutual agreements and covenants between the Land Bank subscribers, by means of which the circulation of the notes among themselves was to be secured, were duly executed, and the issue of the notes was commenced in the face of the certain opposition of a portion of the Government.

It was obvious that the Governor and Council were powerless to check the forward movement of the Land Bank by legislation. The

number of subscribers when the partners first appealed to the Assembly had been less than four hundred. When they organized they numbered over eight hundred, and indeed they continued to increase until there were ultimately about a thousand names upon the list. Their influence secured the House, and for the present at least would continue to do so.

The conflict between the friends and foes of the Land Bank took possession of the columns of the press. As early as July, an Agreement was published in which the subscribers pledged each other they would neither directly nor indirectly receive or take any bills emitted in the scheme commonly called the Land Bank, and cautioned all those who dealt with them that such was their purpose. This document was signed by Peter Faneuil, Charles Apthorp, Hugh Hall, and one hundred and forty-five others. At a later date a similar agreement was published which had been circulated in Newport, and which had received seventy-four signatures. These movements were to some extent offset by the publication of similar agreements of an opposite nature; and the publicity given these proceedings led to advertisements by dealers to the effect that Land Bank notes would or would not be received in trade.[1] Individuals whose names had been brought into notice in connection with the contest inserted notices in correction of rumors as to their opinions or purposes. The wits of the day invoked the aid of ridicule in fictitious notices, the humor of which was doubtless effective at that time.[2]

The thoughts of the opponents of the scheme began in the fall

[1] The following from the News-Letter is a sample of these advertisements:

The Negro-Man advertised to be sold by me the Subscriber for Bills of the Land Bank, will be sold to the highest Bidder, by Inch of Candle, on Tuesday next 4 o'clock, at the Sign of the Lamb.

EPHRAIM BAKER.

[2] Special references are not necessary on these points. An examination of the News-Letter for the summer and autumn of 1740 and the early part of 1741 will reveal numerous instances of the publications alluded to. A sample of the humor employed by the wits of the day will be found in the following from the News-Letter of 25 September, 1740: —

"This is to caution my Friends concernd in the said Scheme against loading the Contribution Boxes in their several places of Worship with their Bills, for if they are free that way, it will assuredly stir up the Clergy of every denomination against those who have hitherto (to the admiration of all mankind amongst us) been silent about em."

of 1740 to turn towards Parliament for relief, and steps were taken to secure action in that behalf in England. The New England merchants and traders in London presented a petition to his Majesty in Council for redress. This petition was, on the twenty-seventh of October, referred to the Lords Commissioners for Trade and Plantations.[1] There still remained, however, as a resource in this country, the potent influence which the Governor exercised over office-holders, and on the fifth of November there was issued the first of a series of proclamations to different classes of office-holders throughout the Province. In this instance it was addressed "to all such persons as hold any Commission under me," and all such were warned against signing or giving any countenance or encouragement to the passing of Land Bank notes on pain of being removed from office. The next day a similar proclamation was specially addressed to the military officers of the Province.

If Belcher thought that his threat of removal from office would dissuade those who held commissions under him from continuing their support of the Land Bank, he was mistaken. On the tenth of November, William Stoddard, a Justice of the Peace, transmitted his resignation of his trust on account of the proclamation of 5 November. Robert Hale, a Justice of the Peace, resigned the same day. Samuel Adams and John Choate, Justices of the Peace, also sent in their resignations, in a joint letter, on the same day. The influence of these resignations may perhaps be traced in Belcher's letters. November thirteenth he writes to Partridge, the Province Agent: "Never was so vile a scheme set on foot. Yet what is done about it will not be sufficient without an Act of Parliament." Again, on the nineteenth, writing to the same correspondent, he says: "I believe nothing less than an Act of Parliament will put an end to it, the undertakers are so needy and violent in the pursuit of it."

On the fifth of December, an instrument entitled the Manufactory Scheme was laid before the Council. It had been offered by

[1] The report of the Board of Trade to the Privy Council was made 13 November. They recommended "prosecutions against all concerned in the said Land Bank." The Privy Council, on 19 November, stated that they agreed with the Board in their opinion that "the said Land Bank Project may create great interruption and confusion in business;" but referred the question of methods of suppression to his Majesty's Attorney and Solicitor-General (News-Letter, 29 January, 1741).

Robert Hale, one of the Directors, for record in the office of the Secretary. The Board refused to permit this, alleging that the proposition to record it after the Board had publicly expressed their opinion of the pernicious tendency of the said Scheme was a great indignity offered to the Board. The same day, Samuel Adams, William Stoddard, Samuel Watts, Robert Hale, and John Choate — all of whom, except Watts, had presented their resignations as Justices of the Peace — were removed and dismissed from their said offices. On the ninth, George Leonard, a Justice of the Peace, and one of the Justices of the Inferior Court of Common Pleas in the County of Bristol, was dismissed from office. On the nineteenth, Joseph Blanchard, a Justice of the Peace, was also dismissed from office; 1 January, 1741, John Burleigh, a Justice of the Peace, and 3 January, John Fisher, Elkanah Leonard,[1] and Ammi Ruhamah Wise, Justices of the Peace, were removed from office for receiving and passing the notes commonly called Land Bank and Manufactory Bills, and persisting therein.

Many of the military officers were also recalcitrant. In a letter addressed to Colonel John Chandler, nine officers who had taken and passed, and who continued to take and pass Land Bank Bills, tendered their resignations, on the twenty-ninth of December. The columns of the press contain abundant evidence of the discontent occasioned by the Proclamation.

Open letters were sent to the several Registers of Deeds, in December, calling upon them to make a return of the Land Bank mortgages. As a further means of influencing military officers, the colonels of regiments were instructed to inquire into the conduct of the officers subordinate to them. The Justices of the General Sessions of the Peace were instructed to use their power, both in Court and as individuals, to prevent the circulation of the Land Bank Bills. In granting licenses to retailers or common victuallers, they were to take this into consideration, and were to caution licensees against passing or receiving the aforesaid bills. A blank form of summons was prepared for use by the Council in cases

[1] Hobart, in his Historical Sketch of Abington (p. 166), says: "It is not known that any one was removed from office in Plymouth County excepting Elkanah Leonard, Esq., of Middleborough."

where they wished to bring before them persons accused of passing Land Bank Notes.

The Registers of Deeds responded to the call of the Council, and a complete list of all the subscribers to the Land Bank whose loans were secured by real estate was thus brought under their scrutiny. Information was also freely offered as to delinquencies on the part of individual officers, who were thereupon instructed by special letters to explain and desist.

The inquisitorial nature of these proceedings called forth from individuals against whom they were directed responses which differed in tone according to the character of the writers and their sympathy with the Land Bank, and which were perhaps in some instances governed by the importance of the offices held by them. Many were cringing and obsequious; a few were manly and independent; and there can be detected in some the contempt of the writers for the despotic and tyrannical methods of the Council. Andrew Burley wrote: —

"As to the complaint exhibited against me for receiving and passing Manufactory Bills since his Excellency's proclamation, I freely acknowledge I have done and am determined so to do at present."

Henry Lee of Worcester said: —

"I am determined to do what I can to encourage it, and think that the privilege of an Englishman is my sufficient warrant therefor. . . . As I act to my conscience, I regard being punished any way for differing in my opinion from the Council to be a civil persecution, and to be deprived of my office until I be proved unfaithful in it, or have violated the laws of the land, I look on as an invasion of my native rights."

Lee, who was a Justice of the Peace, was of course removed from office. Whatever our views as to the economic character of the Land Bank and Manufactory Scheme, we can but agree with him that, so long as there was no law against the experiment, it was his privilege as an Englishman to encourage it; nor was it anything short of civil persecution to punish him for holding a different opinion from the Council. The power of the Council under the Charter to remove from office was disputed by contemporaneous writers; and Lee was not alone in his opinion that it was an invasion of his natural rights. Yet the steps of this kind taken by the

Council in the cases of individual office-holders were insignificant in their consequences when compared with an order issued on the twenty-seventh of January, 1741, in the following words: —

Voted, That no person shall be admitted to appear and plead before this Board as an attorney and counsellor at law, on any pretence whatever, who shall pass, receive, or give encouragement to the bills called Land Bank or Manufactory Bills, but that notice be given hereof in the public prints.

To appreciate to-day the full force of this order, we must recur to the Charter of William and Mary, where we find it established and ordained, —

"that the Governor of our said Province or Territory for the time being with the Council of Assistants may do, execute, or perform all that is necessary for Probate of Wills and granting of administration for, touching, or concerning any interest or estate which any person or persons shall have within our said Province or Territory."

Attorneys who differed from the Council on this point were therefore cut off by this order from all probate practice before the Board.

Meanwhile the Governor, at the close of the January session of the Assembly, had in his address to the Court acknowledged the zeal and steadiness of the Council in their efforts to suppress the Land Bank, and had reproached the House for the countenance which it had given to this iniquitous contrivance, a considerable number of the members themselves being, as he was told, greatly interested in it. He alluded to measures taken here and at home for the suppression of the Scheme, measures which he did not doubt would soon have the desired effect. In aid of these efforts, the Council caused a letter to be prepared to the Lords Commissioners of Trade Plantations, which on submission to the Board was duly approved.

The combined efforts of the Governor and Council, the Boston merchants, and the individuals interested in securing legislation in England adverse to the Land Bank were so far fruitful that on the twenty-seventh of March, 1741, Francis Wilks, Agent, wrote: —

"A bill is just passed the House of Commons to extend the Act commonly called the Bubble Act, passed in 1720, to the plantations in America, after it had sundry alterations from what was first printed

which I could not have a copy of, and time to consider it before it was sent to the Lords. I am satisfied it is the determined resolution of the Parliament to dissolve all companies in America who have put forth any notes or bills to pass in public, and to prevent any other from doing it hereafter."

On the ninth of April the bill referred to by Wilks had its third reading in the House of Lords. It still had certain formalities to go through before it would become a law, and some weeks would necessarily elapse before knowledge of its passage could reach America. Pending its arrival, the Province was destined to witness scenes which testified to the earnestness with which the inhabitants of some of the poorer towns were prepared to carry on the battle in behalf of the Land Bank Bills. It must be remembered that in some of these towns it had been voted to receive these bills in payment of the town rates. The selection of town officers and the choice of Representatives had been controlled in many instances by the opinions of the candidates upon the Land Bank Scheme, and the character of the new House was to show that the Land Bankers were still in the ascendant.[1]

At such a time as this, when the popular voice had distinctly expressed itself in favor of the Land Bank, the attempts of the Governor and Council to suppress the Company led a few lawless spirits to counsel resistance. Of this the Governor received warning through an affidavit, made 2 May, by Samuel Bates of Weymouth, before Edward Hutchinson, to the effect that there was a report in that town of a confederacy in the country of about five thousand men, whose design it was to come to Boston to know the reason why there was not a currency for the Land Bank money. Bates further said that a paper had been passed about in Abington for that purpose, and that there were rumors of the storage of corn

[1] Middleton unanimously voted, 27 January, 1740–41, to receive Land Bank Bills for town rates (News-Letter, 29 January, 1741). Abington passed a similar vote 31 March, 1741 (Hobart's Historical Sketch of Abington, p. 133).

It was one of the points submitted to the qualified voters of Dartmouth, 30 March, 1741 (Suffolk Court Files, cccxliii. 53351.

The Supremacy of the Land Bank in Salem affairs in 1741 is developed in the Diaries of Benjamin Lynde, &c., pp. 104 and 162. The overthrow of the advocates of the Bank in 1742 is noted, p. 163.

in Boston, for shipment for a market. The Governor, on the fourth of May, appointed John Quincy to make inquiry into the matter with privacy and caution, and if he should find that there was need of action to call upon Mr. Justice Lincoln for aid in suppressing this riotous and disorderly proceeding.

Apparently the investigation revealed the fact that there was some foundation for the information lodged by Bates. Affidavits were procured showing that there had been some attempts made to obtain the written engagement of a large number of persons in the towns of Hingham, Weymouth, Stoughton, Abington, Plymouth, and Bridgewater, for a simultaneous rising on the nineteenth of May. Notices had been posted at meeting-houses, vague in import, and indicating some secret understanding. Precisely what was intended is not clear, but from certain veiled threats it may be concluded that the conspirators wished to compel persons having corn, and especially the proprietors of a large amount supposed to be stored in Boston, to sell their corn for Land Bank Bills. The evidence appears to have been sufficient to justify the Council in voting that they had information of a combination to force the currency of Land Bank Bills, and to order, on the fourteenth of May, the issue of a warrant for the arrest of a number of persons who were alleged to

"have been concerned in a design and combination with a number of evil-minded persons to come into the town of Boston in a tumultuous manner tending to the disturbance and disquiet of the government and affright and terror of his Majesty's good subjects."

The premature disclosure of the attempt and the prompt measures for its suppression prevented any outbreak. The only significance of the conspiracy lies in its testimony to the widespread influence of the Land Bank.

It is a curious fact that simultaneously with this attempt to enforce by violence the circulation of the Land Bank Bills, several schemes were under consideration in different parts of the Province for the organization of local banks of similar character. From Scituate a gentleman wrote, in April, —

"a number of us in this and the neighboring towns are designing the same thing and propose the same sum [£50,000], and as some wealthy men encourage our proceeding, by promising to be concerned, I doubt not it will be completed in a months time."

About the same time it was rumored that a bank was to be formed in Middlesex County, which was expected to profit by the mistakes of the Land Bank. In Essex County, a bank was organized and a petition in its behalf was presented to the General Court. This bank actually prepared for circulation notes of small denominations. They were dated at Ipswich, 1 May, 1741, and were payable to the order of James Eveleth, one third at the end of every fifth year, in produce or manufactures. "Will it not be for the interest of all the Counties to follow this laudable example?" said a querist; "and if all these notes obtain circulation who can complain for want of paper money?" [1]

On the twenty-seventh of May, immediately following the issue of the warrant for the arrest of the conspirators, a new Assembly met, and Samuel Watts, a Director of the Land Bank and one of the Justices of the Peace whom the Council had dismissed from office, was elected Speaker of the House. The Governor disapproved this choice, whereupon the House proceeded to elect William Fairfield, an abettor of the Scheme, and this election met with approval.

The Council and the House then proceeded to the choice of Councillors. The names of thirteen of the newly elected Councillors were rejected by the Governor on the ground that they were directly interested in or were abettors of the Land Bank. The evidence which these elections furnished the Governor, being conclusive as to the temper of the House upon the important question in which he took so much interest, he dissolved the House the next day for that reason, and writs for a new election were issued, returnable 8 July.

On that day the new House met, and proceeded to organize by the election of John Choate as Speaker. Choate, it will be remembered, headed the Ipswich petition in favor of the Land Bank which was presented in 1740, and had been dismissed by the Council from his office of Justice of the Peace after he had tendered his resignation. It is not probable that there could have been any expectation on the part of the Representatives that this choice would meet with Belcher's approval. It is almost certain that the bit of bravado in which they indulged by electing Choate met with the fate which was anticipated when the Governor promptly refused his approval, and that the act was taken merely to show him that

[1] See News-Letter, 16 April and 21 May, 1741.

there had been no change in popular opinion. Choate having been rejected, the House then chose John Hobson, Esq., Speaker, a friend of the Land Bank, but not a subscriber. On the thirty-first of July, the General Court proceeded under the general powers in the Charter to the election of civil officers and amongst others chose Samuel Watts and Robert Hale to be two of the Collectors of Excise. Both were Directors in the Land Bank. The Governor had two months before refused his approval of the choice by the House of Watts as Speaker. Hale was the man who had offered to file the Articles of Association of the Land Bank in the office of the Secretary of the Province, which offer the Council had denominated a great indignity to the Board. The records do not disclose when the Act passed by Parliament for the purpose of suppressing the Land Bank reached this Province; but it is quite certain that this took place before the events which we are now considering.[1] Up to this time no steps had been taken by the Directors of the Land Bank which indicated a purpose on their part to recognize the Act of Parliament. Nevertheless the Governor submitted to the House, and distasteful as the step must have been, approved the choice of these two men as Collectors of Excise.

It is essential that we should pause at this stage of the narrative to consider the nature of the Act which had been passed by Parliament, and the condition in which the projectors of the Land Bank and Silver Scheme found themselves under the operation of that Act.

The Act of the 6th of George I., chapter 18, spoken of by Wilks, the Province Agent, as the "Bubble Act," was introduced in Parliament during the excitement connected with the celebrated South Sea Company. It had according to its terms a twofold purpose: first, the creation of two corporations for the transaction of certain classes of insurance; and second, the creation of a monopoly

[1] [1741, May] 23d, Saturday . . . the Land Bank, and all other Private Banks are likely to be blank't by Act of Parliament. The Government frowns on them, our principal establishment (The Diaries of Benjamin Lynde, &c., p. 109). The News-Letter, under the following dates, furnishes evidence of knowledge of the progress of the Bill: —

30 April. It was stated in a London letter that the Bill was passing.

28 May. There was a notice of the arrival of the Bill which had passed both Houses.

16 July. An extract from the Act was published.

of this business for these companies and (simultaneously, it would seem) a monopoly of the stock market for existing corporations. The first purpose was accomplished in the ordinary way; the second, by enacting that the transacting of business by any joint-stock company having transferable shares, or the raising of any such stock, or the taking of subscriptions therefor, or transferring shares therein, or doing anything in furtherance of any such undertaking without special authority by statute, would be unlawful after 24 June, 1720. All transactions by any such company were declared to be void, and any business done by it would be a public nuisance, for which the offenders were to be punished according to the Nuisance Act. Such offenders would further incur the penalalties of premunire, and were liable for treble damages to any merchant suffering harm in his trade through them.

The statute, the passage of which in the House of Commons was reported by Wilks, was the 14th George II., chapter 37, and was entitled "An Act for restraining and preventing several unwarrantable schemes and undertakings in his Majesty's Colonies and Plantations in America." It began by reciting in the preamble the passage of the 6th George I., chapter 18, and then proceeded to describe the Land Bank at length, with a brief allusion to other schemes.

The assertions embodied in this preamble are to the effect that, —

. . . "persons have presumed to publish in America a scheme for supplying a pretended want of a medium in trade by setting up a bank on land security, the stock of such bank to be raised by public subscriptions for large sums of money, whereof small sums were from time to time to be paid in by the particular subscribers, and to be managed by Directors, Treasurer, and other Officers, and dividends to be made as therein mentioned; and the said company of subscribers were to promise to receive the bills which they should issue, for and as so much lawful money as should be therein respectively mentioned in all payments, trade and business; and after the expiration of twenty years to pay the possessor the value thereof in manufactures."

It then goes on to say that sundry other schemes, societies, partnerships, or companies have been set on foot in America for the raising of public stocks or banks, and unlawfully issuing large quantities of notes or bills, contrary to the true intent and mean-

ing of the said Act. Following this description of the Land Bank and reference to the Silver Scheme comes a statement to the effect that doubts had arisen whether the Act of 6th George I., chapter 18, could be executed in America, since all proceedings under it were appointed to be heard and determined either at Westminster, Edinburgh, or Dublin; so that the said Act in its original shape was powerless to suppress violations of its terms which might occur in America. For the purpose of removing these doubts it was enacted that the said Act did, does, and shall extend to the Colonies in America. All things prohibited in the 6th George I., chapter 18, and all the undertakings, attempts, &c., before mentioned were declared to be illegal and void. All offenders against either of the two Acts were declared to be liable to the penalties of the Public Nuisance Act, and they further incurred the pains and penalties of the Statute of Provision and Premunire. Any person who might suffer injury through any of the proceedings declared to be illegal in the Act was empowered to bring suit against the company causing the injury or against any subscriber to the same, in any court in any of his Majesty's Dominions, Colonies, or Plantations in America, and judgment, if recovered, should be given for treble damages. Any possessor of the notes issued by these companies was authorized to bring action against the company, or against any person who within six years had been or who might thereafter be connected with the undertaking. Every such person was declared to be personally liable for the face of the notes and interest from date of issue, and the possessor was entitled to immediate judgment, even if the note by its terms was not yet due. The penalty of treble damages could be avoided by those interested in these schemes if they should pay all demands made upon them under this Act, and should abandon the schemes entirely on or before 29 September, 1741.

The passage of this Act sounded the knell of the Land Bank. It is true that the Company was not a joint stock company, nor did it have transferable interests; therefore it would be difficult to say how it came within the scope of the Bubble Act. The assertion made in the preamble of the Act of 1741 to the effect that the stock of the Bank had been raised "by public subscriptions for large sums of money, whereof small sums were from time to time to be paid in" was absolutely false. The annual instalments which the

subscribers agreed to pay were to be applied in liquidation of loans which they were to have from the Company, and were not payments on account of stock subscriptions. The pretence that the Bubble Act originally applied to the Colonies was more than absurd, it was wicked; and the language of the preamble of the Act of 1741 practically recognizes that fact. It was perfidious on the part of those who drafted that preamble to so describe the Land Bank as to cause members of Parliament to believe that it came within the terms of the Bubble Act. Not only was there no reason why the projectors of the Land Bank should, at the time when they organized, have suspected that they were violating any of the statutes of the realm, but there was then on record a Report of the Board of Trade made to a committee of the Privy Council in which the opinion of the Board was given that schemes of this sort were permissible in the Colonies. More than that, the Attorney-General himself had filed an opinion which might have been quoted to show that what was then being done had been pronounced to be legal by the highest counsel in the realm. The importance of these two documents in this connection is obvious. I therefore submit a statement concerning their origin and contents, of sufficient detail to show their application.

In April, 1735, the Assembly of the Province of Massachusetts Bay passed an Act restraining the circulation of the New Hampshire Merchants' Notes emitted the preceding year. An attempt was made to secure the disallowance, by the Privy Council, of this Act, and the matter was referred to a committee of the Privy Council which called upon the Board of Trade for information; whereupon the Board of Trade, on 17 March, 1736, reported to the committee that the New Hampshire bills in question were issued to supply a want of money, by private men of good estate who had entered into an association for that purpose, and that the bills had no compulsory circulation, being left to stand or fall according to the credit of the signers.[1] Under these circumstances the opinion of the Board of Trade was, "It would therefore in our opinion be a great hardship to set a public mark of discredit upon the persons engaged in this undertaking."

On the tenth of November, 1735, Willes, the Attorney-General,

[1] Province Laws, ii. 747.

in a communication to the Right Honorable the Lords Commissioners for Trade and Plantations, used the following language:[1]—

"In obedience to your Lordships' commands signified by Mr. Popple, I have considered the scheme which you was pleased to send me for erecting a sort of a Bank at Boston, in the Massachusetts Bay and can see no objection thereto in point of law."

The contracts and undertakings of the Land Bank Company were therefore at the time of their execution legal and proper, so far as the subscribers themselves, the Attorney-General of his Majesty, or the Board of Trade knew. They were, however, by this Act rendered void *ab initio*.

Thus through the extension to the Colonies of an Act which by its original terms could not have been there enforced, and which by any strict interpretation of language would not have applied to the Land Bank, a body of law-abiding citizens, who had engaged in a scheme which they believed would alleviate a great public need, were by legislation made subject to the statute of Provision and Premunire, the penalties of which were forfeiture of estate and imprisonment. The Act under which this was accomplished not only impaired the obligation of existing contracts; it was not only retroactive, it was *ex post facto*. The affairs of the Company were by its passage thrown into chaotic confusion. Its securities were annihilated, and the persons who had participated in it were individually at the mercy of evil-disposed persons who might punish their enemies by collecting quantities of Land Bank Bills making demand for payment and then insisting upon the application of the penalties of the statute.

The attitude of the House of Representatives at the opening of

[1] In the Fifth Report of the English Historical Manuscripts Commission, Appendix, page 229, the following is said to be among the Shelburne Papers, under date of 10 November, 1735: "Report of the Attorney-General to the Lords of Trade on the Scheme of erecting a Land Bank in Massachusetts." The quotation in the text is taken from a manuscript copy of a paper in the Public Record Office, Board of Trade, New England, 26, B^{k}. 136. Mr. B. F. Stevens, who procured this copy for me, has also secured from Lord Edmond Fitzmaurice a note to the effect that the above copy is identical with the document in the Shelburne Papers which was calendared in the Report of the Historical Manuscripts Commission as an opinion on a scheme for erecting a *Land Bank*.

the July session indicates very clearly that the Land Bank party had not at that time made up their minds to submit. Indeed it may be doubted if they would quietly have done so if Belcher had remained at the head of the Government.

A contemporary writer describes the situation when Shirley took charge of affairs as follows: —

"As to the temper of the people at that time the Land Bank Party, which was very numerous throughout the Province, was irritated and inflamed to such a degree that they seemed ripe for tumult and disorder; they had persuaded themselves that the Act of Parliament could not be carried into execution, and they had even bid defiance to the Government by their threats." "Nor was the temper of the House of Representatives in a much better frame than that of the populace, two thirds of the members at least being either partners or abettors of the Land Bank Scheme, from whom a general opposition to all the measures of Government necessary at that time for his Majesty's service and the public welfare of the Province seemed in their present disposition to be much feared." [1]

It will depend somewhat on the judgment of the individual whether Shirley's advent to power will be considered to have been for the advantage of the Province or not. He found a people ripe for rebellion. Parliament had placed in the hands of his predecessor an instrument of oppression which could have been so applied that resistance would have been inevitable. The situation demanded conciliation and wise administrative ability. Belcher was incapable of dealing with the question in the proper spirit, and was totally inadequate for the emergency. Had he remained in power the first collision with Great Britain would probably have occurred in 1741. Shirley was, however, a widely different man. He was intelligent, cultivated, and thoroughly understood the people with whom he was brought in contact, and the difficulties against which they were struggling. The methods adopted by Belcher served, according to Shirley "only to exasperate the people and beget a malignant spirit." His evident sympathy with the unfortunate situation of the individual subscribers to the Land Bank could not prevent him from insisting that the legislative steps which were thereafter taken

[1] An Account of the Rise, Progress, and Consequences of the two late Schemes, &c., pp. 41, 42. For full title of this pamphlet see note on p. 2, *ante*.

towards winding up that scheme should be in accordance with the general terms of the Act which compelled this step, but it led him to urge the Board of Trade to let such legislation stand where it was quite evident that it was evasive of the strict application of that Act. His commission was published 14 August. It was important that some steps should be taken towards the abandonment of the scheme and the redemption of outstanding bills prior to 29 September, if the right to a judgment for treble damages was not to be a permanent enjoyment of the possessors of the bills. It can not well be doubted that it was largely due to the change in Governors that the convocation of the Company at Concord on the first of September became possible, at which meeting a committee was appointed "to examine the Directors' and Treasurer's accounts and the Company's trading stock." At an adjourned meeting held at Milton, 22 September, this committee reported, and the next day, —

"a Committee was chosen who were impowered to attend and assist the Directors in consuming the bills as paid in by the partners or otherwise drawn into the treasury, and that they, in behalf of the partners, should audit and settle the Accounts of Trade with the Directors or Factors of the partners, in order to their receiving or paying what might be gained or lost in the trade, to be concluded and shut up as soon as possible, and that they should see the plates on which the Bills were struck be forthwith destroyed."

This vote is said to have been obtained with difficulty, and to have been carried by a bare majority, many being desirous to stand out and bid defiance to Parliament.

On 28 September, in order that the record might be complete as to their voluntary withdrawal from the further prosecution of the scheme before the limit of time set by the Act of 1741, the Directors entered the following declaration, couched in the language of the statute, on the Company's books: —

We, the subscribers, having been concerned in the Manufactory Scheme lately erected in Boston on Land Security, which by the partners is voted to be dissolved, do hereby publicly declare that from this time forward we do desist from and give up and relinquish, and wholly forbear to act further therein, or directly or indirectly to carry on the same.

Operations in connection with the Silver Scheme had already been suspended. Although the Act under which the two organizations were thus abruptly brought to an end made void and illegal all the contracts and agreements into which both Companies had entered, still the situation of those who had issued the silver notes was far less perilous than was that of the promulgators of the Land Bank Scheme. These notes had been divided among the Directors, all men of good standing in the community, and by them distributed among friends who were united by a common purpose, and were actuated by the belief that the steps they were taking were in the nature of self-defence. The consideration of their mortgages was expressed in ounces of coined silver, sterling alloy. Payments were to be made in the same or in standard gold. The obligations ran in favor of nine Boston merchants,[1] whose names were duly recited as payees in the instruments, but who were not described as Directors of any organization. There was, in other words, nothing on the face of these papers which would of itself compel a court to recognize them as connected with an illegal company. Traces are to be found of litigation arising from the facilities furnished possessors of the notes, under the Act of Parliament, to annoy individual partners; but these are insignificant compared with the record of the other Company.

On the other hand, the Land Bank mortgages were issued in consideration of so many pounds in bills of credit called "Manufactory Bills." The receipt of them was acknowledged to be from nine gentlemen, who were described as "Directors of the Manufactory Company (so-called)." [2] Their payment was provided for "in Manufactory Bills as aforesaid, or in Merchantable Hemp, Flax, etc.," at such prices as the Directors should judge they would pass for in lawful money. These instruments were, therefore, unmistakably connected with the Land Bank Company. The patrons of

[1] Edward Hutchinson, Samuel Welles, James Bowdoin, Samuel Sewall, Hugh Hall, Joshua Winslow, Edmund Quincy, Thomas Oxnard, James Boutineau. This list is from a mortgage. There is a return in the Archives (cii. 216) in which the name of Andrew Oliver appears in place of Samuel Sewall, while a copy of the note given in the New England Historical and Genealogical Register, 1860, xiv. 264, has appended to it ten names, those of Sewall and Oliver being both included.

[2] Robert Auchmuty, William Stoddard, Samuel Adams, Peter Chardon, Samuel Watts, John Choate, Thomas Cheever, George Leonard, Robert Hale.

the Land Bank were scattered through the Province. The majority of them were able to meet the obligations which they had assumed, but the margin of their capacity to respond beyond this was narrow. Knowledge of the character of the Act for closing the Companies led some to transfer their property. The straightening of the lines between the Province and adjacent Colonies threw the residences of a number of the promoters outside the Province. Against subscribers thus situated, proceedings under subsequent Provincial legislation became ineffective. It was necessary to provide for the redemption of outstanding bills; for the expenses incurred by the Company, and for certain losses which had been incurred in trade. Each solvent subscriber was primarily responsible for his loan, and in addition for his proportion of losses incurred in the prosecution of the scheme in accordance with the Articles of Agreement. The question of the proper distribution of the losses in trade was a source of perplexity, and caused much discussion. After the adjustment of such questions as these, there still remained the delinquencies arising from the insolvents, the fugitives, and the dishonest.

It is not my purpose to attempt to follow in detail the subsequent legislation upon this complicated subject. We have traced the fortunes of the Land Bank from its origin to its compulsory closure. The legislation which then took place was with a view to protect the public in the first instance, and to prevent as far as was possible the honest partners from being imposed upon by the delinquents. For two years no legislative steps were taken to alleviate the situation. During this period the Attorney-General, under instructions from the Council, prosecuted a few of the delinquents. The situation of the unfortunate subscribers who had complied with the law was harassing in the extreme. Forty-seven thousand two hundred and eighty-two pounds two shillings and ten pence in notes had been issued. About thirty-two thousand five hundred pounds of them were brought in with reasonable promptness after the vote of dissolution, and voluntary provision was made by about six hundred of the subscribers for their proportion of the redemption.

Some of those who were still delinquent were stimulated by a proclamation of the Governor in 1742 to contribute their proportion toward adjusting their several loans, and others were intimidated

by the subsequent appointment of a committee by the General Court for the purpose of seeing what could be done to the delinquent partners.

The fact that a subscriber had paid in his proportionate share merely relieved him from the penalty of treble damages. He might still be the victim of any possessor of the bills who chose to sue him. Nor could the Directors enforce the collection of dues to the Company since all contracts were rendered void by the Act of Parliament. Under these circumstances the subscribers, who had complied as far as was possible with the Act of Parliament, petitioned for relief, and in 1743 an Act was passed by the General Court appointing a Commission, into whose hands the affairs of the Company were placed. The Commissioners could collect debts and levy assessments; and the estates of subscribers were held for such assessments as if they had been attached. The Commissioners were also empowered to execute mortgages on the property of subscribers in place of those originally given the Company. Thus through the aid of a commission all the void obligations of the Company were practically revived, and power was given to renew the securities. The Act of Parliament was to that extent rendered of no effect.

So far as the subscribers themselves were concerned there remained unpaid of their obligations to the Company only £2318 8*s.* 3*d.* when the affairs of the Company were turned over to the Commission. This amount was due from eighty-three delinquents, of whom forty-six had paid a part of their dues, and thirty-seven were totally delinquent.

The Commission levied three assessments, — one against the total delinquents, one against the partial delinquents, and subsequently a third against all subscribers. As regards the results accomplished by these assessments one of the Commissioners afterward reported that proceedings under this Act "tended rather to increase than diminish the debt of the Company of Partners." In this connection it will be remembered that the outstanding bills all drew interest from September 1740, under the provisions of the Act of Parliament, — an important feature in these protracted proceedings.

In 1747 matters were still further complicated by the destruction by fire of the papers of the Commission, including all evidence of payment of assessments.

In order to expedite the closing of this tedious affair, — a process which up to this time had apparently operated in inverse order, — new powers were given the Commission in January, 1749, and a new assessment was ordered. The published lists of the former assessments were declared to be evidence of the amounts due the Land Bank, and the subscribers were put to the proof of payments which they might have made. Collections could be made by warrants of distress, without suit.

An assessment made in pursuance of this order failed to receive the approval of the General Court. If it had been permitted to stand, the whole matter would have been speedly disposed of, but misfortune followed the unlucky participants in the affair, and the recalcitrants were powerful enough to block the wheels of the Commissioners. Thus they practically remained for ten years thereafter, notwithstanding occasional legislation for the purpose of bringing matters to a close. Curiously enough, in one of these Acts it is provided that attested copies of the record of the original mortgages in the registries of deeds may be used in suits against Partners, thus entirely ignoring the effects upon these contracts of the Act of Parliament.[1] During this period much trouble was experienced in securing service of the warrants of distress. In some parts of the Province the officers retained them for years in their hands and then returned them not served.

In the spring of 1759, the Commission was reorganized. The new Commission levied two assessments, the first being upon those partners whom the Commissioners judged of ability to pay. The greater part of this first assessment was collected, and the money was applied, so far as was necessary, for the redemption of the bills then outstanding. In order to refund Partners who had paid more than their just proportion, the second assessment was levied upon the subscribers whose names were omitted in the previous list. The enforcement of this last assessment was met with successful resistance.

In 1760 a lottery was authorized in aid of the unfortunate subscribers to the Land Bank. It hung fire for some time and required more legislation and the passage of more resolutions to enable the Commissioners to secure any benefit from it, but eventually the net sum of £556 15*s.* 6*d.* was realized.

[1] Province Laws, iii. 803.

The accounts of the two Commissions were called in and audited, and a third Commission was appointed 20 March, 1767. With the passage of this Act, the familiar title "Land Bank" disappears from the Index of the Province Laws, so far as the registry of Acts is therein preserved. Nor is there any record in the Archives after this date of any conclusion reached upon the subject.

There were reports of committees both on the accounts of the Commissioners and on the relations of the Directors to the Partners. Action was contemplated to enforce an assessment upon the surviving Directors, and the estates of those who were deceased, of £1740 7*s.* 3*d.*, said to be due the Partners from the Directors. Objection was made to the jurisdiction of the Court, but an order was passed to bring in a Bill assessing the Directors the above sum. Objection was then raised that a final settlement had been made with a committee of the General Court in 1751. This question was discussed, and on 3 March, 1768, the hearing was adjourned to the first Tuesday of the next May session, and there, so far as the record shows, the matter dropped.

I have said nothing in detail of the litigation consequent upon the Parliamentary and Provincial legislation, nor have I space to do so now. The Court files are full of special blanks printed to meet the exigencies of the occasion. There are special forms of writs for possessors of notes, others for the Commissioners as plaintiffs, and there are special blanks for Warrants of Distress to be issued by the first and second Commissions. Hundreds of these were used in the various proceedings, the numbers being greatly increased in consequence of the fire in 1747.

Two things may tend to cloud our judgments in determining the influence of these proceedings upon subsequent political events. First, we can have no sympathy with the Scheme. It could have had no other effect than to add to the embarrassments under which the Province was then laboring. It was so inherently weak that before the first payment of interest became due on the mortgages, the managers procured the execution of an additional agreement that not over one half in amount of the payments to be made should be in Manufactory Bills.[1] It was so vicious in principle that

[1] How extensively this Agreement was executed by the subscribers I have no means of knowing. The only copy that I have seen is in possession of our associate Mr. William Gordon Weld. A description of it will be found in this volume of our Transactions, pp. 47–49, *post.*

it is difficult not to accept its suppression as a thing which ought to have been accomplished on any terms. In the second place, the powers delegated by the General Court to the Commissioners, after it was found that the first Act for the suppression of the Land Bank was only effective so far as honest men were concerned and could be easily evaded by others, were arbitrary in the extreme, and a review of the history of the affair is apt to leave this the leading impression in the mind, thereby tending to throw into the background the iniquitous character of the Parliamentary legislation on the subject.

The fact that there was strong hostility to the Scheme on the part of capitalists and intelligent business men undoubtedly had its effect in preventing any proper unanimity of feeling upon the methods of parliamentary suppression, yet the following of the Land Bank was so great that these methods had a far reaching influence in preparing the people of Massachusetts for subsequent resistance to parliamentary interference in their affairs. Hutchinson assumed that these proceedings furnished evidence of Parliamentary supremacy, but Samuel Adams, in 1773, called attention to the fact that the Act passed by the legislature of the Province militated against the Act of Parliament, and claimed that the acquiescence of the people was simply to what they conceived might operate for public good, while they did not consider themselves bound by such portions of the Act of Parliament as would work harm even to individuals.[1]

[1] Answer of the House of Representatives, 2 March, 1773, to the Speech of the Governor [Hutchinson] of 16 February, in "Speeches of the Governors of Massachusetts from 1765 to 1775, and the Answers of the House of Representatives to the Same, . . . Boston, 1818" (generally cited as Bradford's State Papers), p. 394.

Hutchinson, in his History (ii. 355), says: "It was said the Act of George I. when it passed had no relation to America; but another Act twenty years after gave it force, even from the passing it, which it never could have had without. This was said to be an instance of the transcendent power of Parliament." This transcendent power of Parliament, which was partially set aside by the General Court in 1743, which was disputed by Samuel Adams in 1773, and which was submitted to the arbitrament of the sword in the Revolution, was claimed by the counsel for the defendant in Phillips *v.* Blatchford (137 Mass.) to still have force in Massachusetts. His brief recites the passage of the Acts of 6 George I. and 14 George II., quotes from the State Constitution the clause which continues in force existing laws until repealed, and concludes:

I think that the recital of what has gone before must have prepared us to admit that John Adams was correct when he said, "The Act to destroy the Land Bank Scheme raised a greater ferment in this Province than the Stamp Act did." His statement that this ferment "was appeased only by passing Province laws directly in opposition to" the Act of Parliament,[1] brings before us anew the fact that the General Court shielded the honest subscribers, as far as possible, at the expense of the Act of Parliament. Thus we see that the preposterous legislation of Parliament for the purpose of suppressing the Land Bank, led to its direct evasion by the legislature of the Province and brought the question of Parliamentary supremacy under discussion.

As we look over the list of Directors we see the name of Samuel Adams, and in the later reports of committees the estate of

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"This law, established by the express command of the Sovereign, and, on the change of the government, confirmed by the new Sovereign, is the law to-day."

[1] Novanglus and Massachusettensis; or Political Essays published in the years 1774 and 1775, on the principal points of controversy between Great Britain and her Colonies, . . . p. 39.

We seek in vain for any recognition by historians of the political importance of these events, at all proportionate to the claim advanced in the text of this paper. Hildreth gives a brief sketch of the Land Bank, and says that the Act extending the Bubble Act to the Colonies "was denounced in Massachusetts as an interference with the Provincial Charter, and in South Carolina as a violation of provincial rights." He also refers to the fact that "earnest efforts on behalf of these unfortunate speculators, of whom his father was one, first introduced into politics Samuel Adams, afterward so celebrated." Palfrey says "the project became a prominent political question," evidently referring, however, to local contemporary politics. After stating that "some of the best men of the Province" appealed to Parliament for relief, he sums up the effect of the application of the Bubble Act to the colonies in the epigrammatic statement, "The Land Bank was caught in its own devices." As a rule the references of historians to these events are brief and inappreciative. Hildreth alone seems to have been upon the verge of a complete understanding of their political value. It may be asked why this is so. Our associate, Mr. Abner C. Goodell, Jr., has made a suggestion to me upon this point which furnishes an answer to this question. He says it is because Hutchinson, who is the accepted authority for this period of our history, was opposed to the scheme not only as an economist but as a politician. It was not possible for him to interpret these events without prejudice, nor could those who relied upon his judgment arrive at a true measure of their political influence.

Samuel Adams figures as a delinquent. It is known that the harassing proceedings taken against the estate of the father were a source of annoyance and trouble to the son. Who shall measure their effect upon the mind of the future inspirer of the Committees of Correspondence, the indefatigable and persistent leader in the revolutionary movement?

"It is supposed," wrote one of the pamphleteers of the day, "that there will be about one thousand subscribers, who in their station of life must have an intercourse of business or dealing interwoven with ten thousand more." "Many towns," wrote another, "take the notes in trade, besides paying their Town and Ministerial rates with it, at least in part." Yet Parliament was too impatient to wait a few months for this popular experiment to collapse through its own weakness, too anxious for hostile legislation to care for its reputation for consistency and justice, and in its haste and impatience sought to crush the Land Bank out of existence by means which then aroused the indignation of this multitude of interested persons, and which cannot fail to create the same feelings in the mind of the disinterested reader to-day.

A discussion, in which several of the members participated, followed the reading of Mr. Davis's paper.

FEBRUARY MEETING, 1895.

A STATED MEETING of the Society was held in the Hall of the American Academy of Arts and Sciences, on Wednesday, 20 February, 1895, at three o'clock in the afternoon, the PRESIDENT in the chair.

After the Minutes of the last Meeting had been read and approved, the Corresponding Secretary read the following letter: —

50 WEST FORTY-SEVENTH STREET, NEW YORK,
Tuesday, 4 February, 1895.

MY DEAR MR. DAVIS, — Your very kind letter, together with the official announcement of my election as an Honorary Member of The Colonial Society of Massachusetts, and an advance copy of the Annual Report and By-laws of the Society, were duly received, and nothing but the desperate illness of one of the members of my family has prevented my acknowledging them more promptly.

I do most highly appreciate the honor done me by your Society in thus placing me on the list of its Honorary Members in such distinguished company, and I accept it with the warmest thanks. The objects of the Society as set forth in its Constitution are most interesting, and I shall take great pleasure as opportunity offers in attending its meetings.

Will you please to convey to your associates who have done me this signal honor my grateful appreciation of their kindness.

Yours very truly,

JOSEPH H. CHOATE.

ANDREW MCFARLAND DAVIS, Esq.,
Corresponding Secretary.

The Rev. Dr. JOSEPH H. ALLEN spoke at length upon the religious situation in the American Colonies before the Revolution. As this subject was treated without notes, except for occasional quotations from documents, only the following brief outline can be given here: —

Governor Hutchinson, in summing up the situation in 1774, says (III. 455) that "the people had been persuaded that their religion as well as their liberties was in danger," and adds that "this was what would cause them to go all lengths and to surmount the greatest difficulties." This language implies not only that religious passions embittered the political conflict, but that two rival parties were then contending for supremacy. A State Church of some kind was assumed to be an essential part of the body politic; but here there were two claimants contending for public support and official authority, — the Congregational body, established as part of the political system at the first founding of the Massachusetts Colony; and the Episcopal, which for nearly ninety years had existed here side by side with it.

Strictly speaking, this rivalry existed only in New England: since in the more southerly Colonies, where Episcopacy had been established from the beginning, — notably in Virginia, — it was in full harmony with the patriotic spirit of the day; while here — in Boston especially — it was identified with a small official party, mostly Loyalists. According to Hutchinson, the patriotic leaders were all (or nearly all) Congregationalists, with their clergy, who in general aimed openly at independence; while the smaller religious bodies — Baptists, Methodists, Presbyterians, Quakers — might be reckoned neutral. In numbers, the Congregationalists counted not far from six hundred churches, while the Episcopalians did not probably much exceed two hundred churches in all, of which we may reckon about fifty in New England. The extreme jealousy and dread felt towards so small a body remain to be accounted for by circumstances in the earlier colonial history. The speaker's remarks were mostly a rapid review of these circumstances, which will here be briefly traced in chronological outline.

Episcopacy was established in Virginia with the founding of the Colony in 1607; and in 1632 the English law of penalties against dissent was adopted. Virginia, however, was regarded by many of its own clergy as a sort of penal colony, from which they were chiefly anxious to escape; and the Church there had in its early days neither dignity nor authority.

In the Massachusetts Colony, Congregational church membership was made essential to the political franchise in 1631, but this position was constantly threatened from the first. In 1634, an

attempt of Archbishop Laud to crush the religious independence of the Colony was foiled. In 1644, a deputation was sent to the English Parliament to protest against a similar attempt of the Presbyterian party to compel a state religion under the forms of the "Solemn League and Covenant." In 1648, the Congregational Order was defined by the "Cambridge Platform," and became the ecclesiastical constitution of Massachusetts, maintained at public cost till 1833, — suffering some modification meanwhile. The government of the Restoration, in 1662, required the abolition of laws against Episcopalians and Quakers, also of the limiting of political rights by church membership. In England, at the same period, the laws of conformity as against Dissent, with the Test and Corporation Acts, were made so cruel that more than eight thousand Non-conformists are said to have perished in the prisons of Charles I., increasing the anger and terror felt against the Anglican Establishment here. The attempt of Sir Matthew Hale to investigate these atrocities, in 1668, was overruled by the influence of the High Church party. Suspicion was further roused by an attempt made in Virginia, in 1672, for the establishment of an American bishopric; and though, in the scheme adopted (which was not carried out), New England was expressly exempted from its jurisdiction till it should be otherwise ordained, yet the apprehension continually increased that conformity with the Church of England, to be enforced by law, was an object never lost sight of in the government policy, as a means of strengthening the political tie that bound the Colonies to the mother country. It was regarded as a part of the same scheme when, in 1684 (the last year of Charles), the Colonial Charter was declared void by the Court of Chancery; when, in 1686, the first Episcopal church was founded in Boston under official support, and was called "the Royal Chapel"; and when, a few months later, Sir Edmund Andros took forcible possession of the Old South Meeting-house for the celebration of the Episcopal service. The apprehension was at its height when, in April, 1688, Increase Mather, the most distinguished representative of Congregationalism, escaped under cover of the night[1] to England, and there, in a three years' stay, making friends of the government of William III., was able "to rescue for Massachusetts the larger part

[1] See Sewall's Diary, i. 209, 210.

of her civil liberties, and to put her churches and her schools beyond the danger of forcible conversion to Episcopal uses by the agents of the English government." [1]

But in 1692, against the opposition of Catholic and Quaker, Episcopacy was made an establishment in Maryland; and from the mission of Rev. Thomas Bray, who went to inspect its churches in 1700, there issued a religious foundation, which had a most important bearing in the later history, — the Society for the Propagation of the Gospel in Foreign Parts, chartered in 1701. This was apparently meant for the simple work of evangelizing a country wide, new, poor, and largely destitute of civilizing agencies; but it soon proved to be, or was charged with being, a propaganda of Episcopacy, with a view to its getting a footing as a political establishment. It was charged with employing more of its missionaries in New England alone than in all the Colonies south of New York put together; and these, instead of being sent to remote or destitute localities, found homes in the best settled and best taught region of the western continent, — Boston, Cambridge, Newbury, Ipswich, Salem, Braintree, Portsmouth, and Marblehead being the most important "missionary" stations. In 1722, the President of Yale College and six of its officers joined the Episcopal ranks, and several of them afterwards became active Episcopalian propagandists. In 1725, Massachusetts was asserted to be within the episcopal charge of the Bishop of London. The name "Dissenters" began to be applied, opprobriously, to members of the older colonial churches other than Episcopal. King's Chapel had its "Governor's Pew," where the King's representative sat in a sort of official state among other officers and favorites of royalty. Reaction from the "Great Awakening" of 1735 led in one direction to a sudden expansion of religious liberalism, and in the other to a craving for the decencies and order of ecclesiastical formalism. The hostility and alarm thus stirred in the established Congregational body broke out, in 1747, in what is known as the "Hobart Controversy" in Connecticut, beginning with the protest against the guilt of schism incurred in the Episcopal seceders from New England orthodoxy, made in an ordination sermon at Stamford by Rev. Noah Hobart. Dr. Cutler, of Christ Church, Boston, the former Presi-

[1] Williston Walker, Ph.D., of the Hartford Theological Seminary, in Papers of the American Society of Church History for 1893, pp. 73, 74.

dent of Yale, was reported to have said that there is "ordinarily no salvation out of the communion of the Episcopal Church"; and we may take it as a retort personal when Mr. Hobart says, in his "Serious Address," that "probably there are many immortal souls now in hell, who, had you contentedly remained in our communion, might have spent an happy eternity in heaven"![1]

It was in this year, 1747, that Jonathan Mayhew, the boldest and most radical preacher of his day, was settled over the West Church in Boston. To omit what might here be told of his noble ancestry, — his descent from Thomas Mayhew, who settled at fifty in Martha's Vineyard, and lived there close upon forty years as governor, teacher, civilizer, and missionary of the native tribes;[2] or of his strikingly independent and eloquent career as preacher, — we come to the latter days of his ministry, and the outbreak of the "Mayhew Controversy," in 1763. This controversy brought to the front the sharpest prejudices on both sides. One of the missionaries of the "Society for the Propagation of the Gospel" had just died at Braintree, and a newspaper comment following his death had charged, virtually, that he was sent there under false representations, and that his being commissioned at all was in perversion of a missionary trust-fund. This called to the defence of the Society the Rev. East Apthorp, of Cambridge, son of a Boston merchant (Charles Apthorp), a gentleman and a scholar, English bred, himself a missionary in Cambridge, and first Rector of Christ Church. Jonathan Mayhew was loudly and at once summoned by the general voice to reply; and for the two years following there ensued a battle of thick pamphlets, three of them — far the heaviest and loudest guns of the battle — being by Mayhew himself. Each party, no doubt, thought itself to have the better in the war of words; and each — to turn again to the testimony of Governor Hutchinson — found itself all the more obstinate and acrimonious in the political dispute that followed ten years later, when, in this part of the country at least, the line of division in that dispute

[1] A very full account of this Controversy will be found in the Rev. Henry W. Foote's Annals of King's Chapel, chap. xvii. (ii. 241–280), on Episcopacy and the Mayhew Controversy.

[2] The story of Mayhew's ancestry and their civilizing work is given on pages 252, 253, of the chapter above referred to. In this connection the speaker took occasion to refer to the Treasurer of our Society, Mr. Henry H. Edes, as a lineal descendant and worthy representative of the heroic Mayhew family.

followed so closely the line of difference between the two rival churches.

A long discussion followed, in which several of the members participated.

Professor William W. Goodwin, referring to the use by Dr. Allen of the word "Dissenter" as indicating dissent from the opinions of the Episcopalian Church, called attention to the Mary Saltonstall Scholarship at Harvard, which provides that it shall be preferably given to a "Dissenter," there evidently meaning a member of the Congregational Church.

Mr. William G. Weld stated that the recent communication to the Society of a paper on the Land Bank of 1740 had recalled to his mind that he had in his possession, among his family papers, two documents connected with this subject. He had caused copies of these to be made, and he now submitted them to the Society.

The first of these documents is a Land Bank Mortgage,[1] executed 9 September, 1740, by Joseph Weld, gentleman, and Martha Weld, his wife. The consideration is said to be "One Hundred Pounds in Bills of Credit, called Manufactory Bills," and is acknowledged to have been received from Robert Auchmuty of Roxbury, Esq., Samuel Adams, and William Stoddard of Boston, Esqrs., (then follow six other names,) "Directors of the Manufactory Company (so called), by the said Joseph Weld for his share as a Partner in said Company." The mortgaged premises are situated in Roxbury.

The condition of the mortgage is as follows: —

"PROVIDED nevertheless that if the said Joseph and Martha Weld their Heirs, Executors or Administrators shall at the Expiration of every Year from this Date annually, during the space of Twenty Years, pay to the said Robert Auchmuty, Samuel Adams, William Stoddard, Peter Chardon, Samuel Watts, George Leonard, Robert Hale, John Choate and Thomas Cheever, Five in the Hundred of the Principal Sum

[1] The mortgage is recorded with Suffolk Deeds, lx. 103.

now received, and Three per cent. Interest for the Principal enjoyed, in Manufactory Bills as aforesaid, or in Merchantable Hemp, Flax, Cordage, Bar-Iron, Cast-Iron, Linens, Copper, Tann'd Leather, Flax-seed, Bees-Wax, Bayberry-Wax, Sail-Cloth, Canvas, Nails, Tallow, Lumber, viz: Shingles, Staves, Hoops, white Pine Boards, white Oak Plank, white Oak Boards, and Ship Timber; Barrel-Beef, Barrel Pork, Oil, Whale Bone, or Cord Wood, of the Manufactures or Produce of the Province aforesaid, or Logwood at such Prices as the Directors shall judge they pass for in Lawful Money at Six Shillings and eight Pence per ounce, with one per cent. advance thereon, at the respective Times of payment, then this Deed to be void: But if any one Payment above Conditioned for shall be behind in the Whole, or in Part, or unperformed, by the space of one month after the Time above set for it, then to remain in full Force and Virtue."

In addition to the acknowledgment of the receipt of the consideration of the mortgage, which is embodied therein according to the customary phraseology of such instruments, there is attached to the mortgage a special receipt signed by Joseph Weld, "for the sum of One Hundred Pounds, being the full consideration mentioned in the foregoing instrument."

In submitting the copy of the second document Mr. Weld stated that, although the original was executed upon a printed form, he had never met with any other copy of this supplementary agreement modifying the terms of payment of the mortgage. The principal points in this instrument appear to be: First, an agreement on the part of the Mortgagor that he will pay one half at least of his annual payments in manufactures; Second, a consent on the part of Weld that the Directors may, at their discretion, let out such bills — meaning probably the bills loaned under the mortgage — as they may have at any time on hand, such loans to be repaid in manufactures only; and Third, a consent to the Directors holding such bills in their treasury during the last two years of the mortgage.

The following is a copy of this document: —

THIS INDENTURE made the Nineteenth day of March Anno Domini One Thousand Seven Hundred and Forty and in the fourteenth year of the Reign of our Sovereign Lord GEORGE the Second, by the Grace of God of Great Britain, France and Ireland, King, Defender of the Faith, &c. By and Between Joseph Weld of Roxbury in the

County of Suffolk in the Province of the Massachusetts Bay in New England, Gentleman on the one Part, and Robert Auchmuty, of Roxbury, Esq; Samuel Adams and William Stoddard, of Boston, Esqrs; Peter Chardon of Boston, Merchant, Samuel Watts, of Chelsea, Esq; all in the County of Suffolk, George Leonard, of Norton in the County of Bristol, Esq; Robert Hale of Beverly, Esq; John Choate of Ipswich, Esq; and Thomas Cheever of Lynn, Gentleman, all in the County of Essex, Directors of the Manufactory Company in Boston in the County of Suffolk aforesaid, of the other Part, WITNESSETH, That Whereas by certain Indentures between them made, bearing Date the Ninth of September, 1740, the said Joseph Weld hath undertaken for One hundred Pounds of the said Manufactory Companies Bills, according to the tenour of those Indentures, but upon more mature Consideration, for the Increase and Promoting of the Manufactures therein mentioned, and better securing the value of the said Manufactory Bills, which to us seem the most proper Means to Relieve the Misfortune and Poverty of this Country, the said Joseph Weld for himself, his Heirs, Executors and Administrators doth hereby further Covenant and Agree with the Directors aforesaid, and each of them severally, their and each of their Heirs, Executors and Administrators, that he the said Joseph Weld, his Heirs, Executors and Administrators, will annually Pay one half at least of each of the Annual Payments in those Indentures mentioned, of Five in the Hundred of the Principal Sum by him Received, with Three per cent. Interest for the Principal enjoyed in the manufactures in the said Indentures mentioned.

Also that it shall be lawful for the Directors of the said Company at their Discretion from Time to Time to Let out such Bills as shall be in their Treasury, on good Security, to be Repaid both Principal and Interest in the aforesaid Manufactures only.

And lastly, that it shall be lawful for the Directors of said Company, at their Discretion, to continue in the Treasury and not let out any of the Bills that shall happen to be in the Treasury, at any Time in the Two last of those Twenty Years mentioned in said Indentures, but to keep them there till the Expiration of the said last Two Years.

IN WITNESS of all which, the Parties aforenamed hereunto interchangeably put their Hands and Seals at Boston aforesaid, the Day and Year first above written.

Signed, Sealed, and Delivered
In Presence of
Walter Hamilton,
S. Auchmuty.

Joseph Weld. [Seal.]

Mr. Andrew McFarland Davis spoke as follows: —

The Society is under obligation to Mr. Weld for submitting these copies of instruments, which illustrate the important subject which I undertook to explain at the January meeting. The peculiar character of the payments called for by the terms of the mortgage which has just been laid before us is well worthy of your attention, and it is a very significant fact that even before the date of the first payment of interest the Directors should find it necessary to have this supplemental instrument executed, whereby they sought to prevent payments under the mortgages being made in their own bills. It is obvious from this that they found difficulty in keeping their bills afloat; and it shows, I think, that the so-called Land Bank could not long have been maintained even if the government had not undertaken to suppress it.

I quite agree with Mr. Weld as to the value and rarity of the second of these instruments. I have examined many volumes in the Archives at the State House and of the Suffolk Files at the Court House in search of information concerning the Land Bank, and this document in the possession of Mr. Weld, a copy of which is now before the Society, is the only one of the kind I have seen.

At the January meeting I stated that men of property who had been unfortunate enough to become partners in the Land-Bank were, after the intervention of Parliament, harassed by holders of the bills. Each and every partner became liable for the redemption of such bills as might be presented to him for the purpose, and those who had available means were selected as victims. It was not essential as a preliminary for the demand upon such partner that any effort should have been made to collect the value of the face of the bills from the Company. There are numerous suits on the Suffolk Files against individual partners, and, amongst others, the ancestor of our associate, Captain Joseph Weld, who executed the mortgage of which we have a copy now before us, figures as a defendant. The following note[1] was addressed to him: —

[1] Suffolk Court Files, vol. ccclix. no. 56470.

Boston, 20th Decem., 1742.

Sr, — Hereby I give you notice as you are a partner of the late Manufactory Company that I am possessor of Fifty eight Manufactory Bills (so called) of the denomination of seventeen shillings and sixpence each and sixteen more of said Bills of Twenty shillings each and as your partners do not redeem 'em of me I hereby demand payment of you on the same in lawfull money with lawfull Interest from 9th Septem^{r} 1740 immediately.

Your compliance will oblige

Sr Yr humble Servant

Jacob Griggs

of Boston in ye County of Suffo Merchant.

To Capt. Joseph Weld
at Roxbury in the County of Suffolk.

This demand was served upon Weld by the sheriff, and return of service was duly made. At the April Term of the Inferiour Court of Common Pleas,[1] Griggs sued Weld and recovered judgment.[2] From this judgment Weld appealed to the next term of the Superiour Court of Judicature for Suffolk County, and entered with sureties into recognizance to prosecute the appeal.

The record does not state explicitly whether this appeal was prosecuted to final judgment, but this was probably the case, for in 1744 the bills on which the suit was founded were handed over to the Commissioners to be burned. The receipt of the Commissioners is in the following language: —

Boston, April 10th, 1744.

Received of Benjamin Pemberton, Esqr Clerk of the Superiour Court of Judicature &c the sum of Sixty five pounds fifteen shillings Manufactory Bills lodged in said Court by Mr. Jacob Griggs at his suit against Mr Joseph Weld & for which said Griggs recovered judgment & is since satisfied.

15	20/	15		
58	17/6	50	15	
		65	15	

John Jeffries
Saml Danforth } Commisrs

The judgment referred to in the receipt was probably an affirmation of the judgment of the lower court; but if such judgment was entered, the entry was not preserved.

[1] Suffolk Files, vol. ccclxii. no. 56960. [2] *Ibid.* vol. ccclxix. no. 58408.

The surrender of the notes to the Commissioners brings before us the explanation of their scarcity. Personally, I have never seen one of them, and do not know if any are in existence. It would be very remarkable, however, if all of them were destroyed.

Mr. JOHN NOBLE read the following paper: —

NOTES ON THE TRIAL AND PUNISHMENT OF CRIMES IN THE COURT OF ASSISTANTS IN THE TIME OF THE COLONY, AND IN THE SUPERIOUR COURT OF JUDICATURE IN THE FIRST YEARS OF THE PROVINCE.

To these Courts successively, the predecessors of the Supreme Judicial Court, belonged the exclusive jurisdiction over all the graver crimes.

The Court of Assistants seems to have been as old as the Colony itself, and to have exercised full judicial functions from the very outset.

The statements that have been made that the Court was established in 1639, that "the power of establishing Courts of justice was assumed by the colonists, without any grant of authority in their Charter," and that the Assistants "derived their judicial authority from legislative enactment," seem to be inaccurate, and to have been made on insufficient authority. They may have arisen from confusion of dates, from confounding different courts, and from hasty inferences.

At the outset, about all the functions of government, executive, legislative, and judicial, appear to have been exercised by the Magistrates, sitting as a Court of Assistants. This appears from the records, beginning with that of the first Court of Assistants, held 23 August, 1630, and from that time on. The action of the General Court was in the early days insignificant. The first record of its sitting is under the date of 19 October, 1630, and down to May, 1634, it met only four times thereafter, according to the records, while more than thirty Courts of Assistants were held.

Down to 1660, there is no separate or specific law to be found creating or establishing the Court of Assistants, or defining its powers or the extent of its jurisdiction. During that period of thirty years it had exercised all the powers and extended its jurisdiction over every matter falling within the province of that Court

specified in the Laws of 1660; and from the trial of Walter Palmer for homicide before a jury of twelve men, 9 November, 1630, it had continuously tried cases of "life, member, and banishment," and a few of "divorce." Its jurisdiction is indicated also by the laws establishing or defining the inferior courts. The act of 3 March, 1635–6, provides for "Foure courts kept eūy quarter," at Ipswich, Salem, New Town, and Boston, to "trie all civill causes, whereof the debt or damage shall not exceede X^{l}, & all criminall causes not concerneing life, member, or banishm^{t}," with a right of "appeale to the nexte greate Quarter Court." The act of 9 September, 1639, establishes "Speciall Courts," in consequence of the increase of "the businesses of the ordinary Court of Assistants," to be held quarterly by "such of the Magistrats as shall reside in or near to Boston, or any 5, 4, or 3 of them, the Governo^{r} or Deputie to bee one," with powers substantially the same as the County Courts last mentioned. There were also the Strangers' Court and other small Courts established at different times. Though the Magistrates sat in the County Courts and others, these are not to be confounded, as they have sometimes been, with the regular Courts of Assistants.

The acts relating to the Court of Assistants seem to be declaratory, recognizing its existence and the extent of its jurisdiction, and merely regulating its terms.

The act of 3 March, 1635–6, provides that "There shalbe foure greate Quarter Courts kept yearely att Boston, by the Goūn^{r}, & the rest of the Magistrates," fixing the terms.

By the act of 17 October, 1649, the number of terms was reduced from four to two; and this last act is embodied in the Laws of 1660, — which in the Chapter on Courts fixes the terms and states the powers of the Court of Assistants, as follows: —

"For the better administration of justice, & easing of the Country of unnecessary charges and travaile, — It is Ordered by this Court and the Authority thereof, That there be two Courts of Assistants yearely kept at Boston by the Governour, Deputie Governour, and the rest of the Magistrates, on the first Tuesday of the first month, and on the first Tuesday of the seventh Month, to heare and determine all and onely actions of appeale from inferiour Courts; all Causes of divorce, all Capital and Criminal causes, extending to life, member or banishment. And that justice be not deferred, nor the Country needlessly charged,

It shall be lawful for the Governour, or in his absence the Deputie Governour (as they shall judge necessary), to call a Court of Assistants for the tryal of any Malefactour in Capital Causes."

The exercise of these powers and this jurisdiction from the beginning of the Colony uninterruptedly appears from the records of the Court itself so far as extant, and from numerous papers found among the Early Suffolk Files now in process of arrangement. It is also repeatedly recognized in the records of the General Court.

That separation of the government into different branches, — executive, legislative, and judicial, — which resulted in the Court of Assistants becoming a purely judicial body, took place gradually.

The legislative function of that Court may be said to have been surrendered by agreement amongst the Magistrates and Freemen at the General Court in May, 1634; but the executive function continued to be exercised by it, with more or less frequency, for some years. In fact, it was as late as 1650 that the Magistrates sitting as a Council first began to have a separate record.

There was nothing for a long time that could properly be called a Criminal Code, except so far as that part of the "Body of Liberties," so called, of 1641, which related to criminal matters, and which was founded upon the Word of God as evidenced in the Scriptures, could be so designated.

The Colonists brought with them, of course, that habit of legal practice in matters of form and detail which they had acquired as Englishmen, and in which some of them had been specially educated. There was also the limitation in the Charter that no laws should be made repugnant to the laws of England. This limitation was but little regarded, and seems to have been construed to mean simply that no such laws should be passed as would be hostile to the government of England, or subversive of those great fundamental principles of English law which were considered to be the birthright of every Englishman, — such, for instance, as the right to trial by jury. Beyond these limitations, so construed, and aside from those methods of procedure which they naturally adopted by force of English habit of mind, the Court of Assistants recognized no other source of law than such as they could find in the Holy Scriptures, as interpreted by themselves, — or as embodied in legis-

lative enactments of the General Court, sometimes with the advice of the Elders of the churches.

From time to time, as it appears by the Colonial records, committees were appointed to make a draught of laws: 6 May, 1635, "of such lawes as they shall judge needfull for the well ordering of this plantacõn," — 25 May, 1636, "of lawes agreeable to the word of God, wch may be the Fundamentalls of this Cõmonwealth," — while "in the meane tyme the Magistrates and their associates shall ꝑceede in the Courts to heare & determine all causes according to the lawes nowe established, & when there is noe lawe, then as neere the lawe of God as they can," — and so on at different times thereafter.

Meantime the Magistrates seemed inclined to the policy of letting laws "arise *pro re nata* upon occasions," and "to raise up laws by practice and custom."

Then came the Body of Liberties in 1641, and the Codes of 1649, 1660, and 1672. The punishments inflicted appear in the records of the cases tried by the Court. The penalty imposed upon adultery is rather curious in its history. At a trial in the Court of Assistants, 6 September, 1631, where the offender is sentenced to be "seuerely whipped," "it is ꝑpounded with^{r} adultery . . . shall not be punished wth death. Referred to the nexte Court to be considered of."

At the second Court thereafter, 18 October, 1631, it is ordered that where committed "with another man's wife, they both shalbe punished with death."

Then at a General Court, 12 March, 1637–8, "The law against adultery made by the ꝑticuler Court in October, 1631, is confirmed;" and at a General Court, 7 October, 1640, "The first law against adultery, made by the Courte of Assistants @ 1631, is declared to bee abrogated; but the other, made the first m̃ 1637 or 1638, by the Generall Court, to stand in force." The reason of this legislation is perhaps apparent enough without further explanation, — namely, to make the infliction of capital punishment for this offence rest for its validity upon an enactment of the General Court, rather than upon an enactment by the Court of Assistants. The history of this action as to the punishment for adultery is not only curious, but also most important and suggestive.

This with many other points will be more largely dealt with in the volume of the Records of the Court of Assistants, referred to below, in which the history of this Court, its functions and jurisdiction, will be considered. The list of capital crimes in the Body of Liberties is long, — heresy or idolatry, witchcraft, blasphemy, murder, poisoning, bestiality, sodomy, adultery, man-stealing, perjury against life, and treason, — and it is lengthened in the Code of 1672. Certain safeguards are provided as to the trials and execution of sentence. Banishment, dismembering, and branding were prescribed and inflicted for certain offences. The wearing of a letter or other badge of ignominy does not seem to be prescribed by law, but was a penalty not unfrequently imposed by the courts.

In the early days of the Province the penalties prescribed by the laws were not essentially changed; the list of capital crimes is increased somewhat, branding and dismembering continued, and the wearing of a letter prescribed for certain offences; as in the case of adultery, after being set on the gallows and whipped, the offenders "shall forever after wear a capital A, of two inches long and proportionable bigness, cut out in cloth of a contrary colour to their cloaths, and sewed upon their upper garments, on the outside of their arm, or on their back, in open view," &c.; and similarly the use of the letter I, in case of incestuous marriages or practices. Some of these laws were disallowed, however, by the Privy Council.

Under the Province, the successor of the Court of Assistants was the Superiour Court of Judicature, established by the act of 25 November, 1692. This act was subsequently disallowed, for certain reasons, by the Privy Council, 22 August, 1695, — a disallowance not known in Boston till 12 July, 1696.

Various acts subsequently passed were in like manner disallowed, until the act of 26 June, 1699, established the Court anew.

The records of the Superiour Court of Judicature from 1692 to the establishment of the Supreme Judicial Court, its successor under the Constitution, are full and complete, and in perfect preservation among the records of the latter Court in Suffolk County. Of the records of the Court of Assistants only the second volume, from 1673 to 1692, is extant. It is to be found in the same place also in perfect preservation.

The earlier records, so far as any complete volume is concerned, have been missing beyond the memory of man.

From the first Court held, 23 August, 1630, down to October, 1641, they are to be found in the Massachusetts Colony Records, and from the last date down to 5 March, 1643–4, in the "Barlow Copy," now owned by the Boston Public Library.[1]

Much material has already been collected from various sources, mainly from the Court Files of the several Counties of the Commonwealth, which, to a certain extent, will fill this intervening gap of thirty years; and I have now in preparation a volume which is intended to contain all the Records of this Court, so far as they have been recovered or can be reproduced.[2]

Following is a list of cases tried by the Court of Assistants, with the punishment imposed by sentence, arranged according to the latter: —

BRANDING.

4 Sept., 1632. Richard Hopkins, "for selling peeces & powder & shott to the Indeans." To be "seuerely whipt, & branded with a hott iron on one of his cheekes." (M. C. R., page 99.)

"ppounded if this offence should not be punished hereafter by death." "Referred to the nexte Courte to be determined." (Legislation, 17 May, 1637, in M. C. R., page 196.)

3 Oct., 1632. Nicholas Frost, — "for thefte," &c., "drunkenes and fornicacõn," — "fined," "seuerely whipt, & branded in the hand with a hott iron, & after banished out of this pattent." In case of return, "hee shalbe putt to death," &c. (Page 100.)

Subsequently, 3 Nov., 1635, imprisoned till trial for breach, 1 March, 1635–6, forfeited his recognizance, 5 April, 1636, bound over "to appeare . . . upon sumons." (Pages 155, 164, 172.)

6 Oct., 1635. Robte Scarlett, "a knowen theife," "shalbe seuerely whipt & branded in the forehead with a T," and his master enjoined to send him "out of this jurisdicõn." (Page 163.) Subsequently, 28 Oct., 1636, on "hope of amendment, hee is admited to stay." (Page 183.)

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[1] For an account of this volume and a transcript of its unique passages, see William H. Whitmore's "A Bibliographical Sketch of the Laws of the Massachusetts Colony," etc. Boston, 1890.

[2] Mr. Noble, as Clerk of the Supreme Judicial Court for the County of Suffolk, is the official custodian of the Suffolk Court Files.

19 Sept., 1637. William Brumfeild, "for his stealeing, ploting to run from his m^{r}, lying, drunkennes & idlenes," "censured to make double restitution, to bee branded, & bee seuerely whiped." (Page 203.)

1681. George Fairfax. "Burglary, stealing, running away from his Master," "to be branded in the forehead wth the letter B & be seuerely whipt," &c. (Rec. Ct. of A.)

12 Nov., 1683. Leonard Pomeroy. "Murder," — "found guilty of manslaughter," — "to be burnt in the hand & forfeit his Goods & chattell," — "ye executioner executed the sentence in ye face of the Court." (*Ibid.*)

Sept., 1685. Uriah Clements. Burglary, "to be branded with the letter B. on ye forehead & have his Right eare cutt of." For a second burglary subsequently sentenced "to be branded wth letter B on his forehead & have his left eare cutt of." (*Ibid.*)

WEARING PAPERS AND OTHER BADGES OF IGNOMINY.

3 Sept., 1633. Robte Coles. "Fyned X^{l}, & enjoyned to stand wth a white sheete of pap on his back, wherein a drunkard shalbe written in greate lres, & to stand therewth soe longe as the Court thinks meete, for abuseing himselfe shamefully wth drinke, intising Iohn Shotwell's wife to incontinency, & other misdemean^{r}." Had been previously fined in 1631 and 1632 for drunkenness.

4 March, 1633–4, "for drunkenes," "shalbe disfranchised, weare about his necke, & soe to hange upon his outward garm^{t} a D, made of redd cloath & sett upon white; to continue this for a yeare, & not to leave it of att any tyme when he comes among company, under the penalty of xl^{s} for the first offence & v^{l} the second, & after to be punished by the Court as they thinke meete; also he is to weare the D outwards & is enjoyned to appeare at the nexte Geñall Court, & to contynue there till the Court be ended."

14 May, 1634. "The sentence . . . is nowe reversed, vpon his submission and testimony being giuen of his good behav^{r}."

4 March, 1634–5. Ordered at a General Ct that he "shall not pay more of his Fyne of X^{l}, for drunkenes, &c., than hath bene already levyed in strong water." (M. C. R., pages 107, 112, 118, 139.)

5 April, 1636. Willm Perkins. "Drunkenes & other misdemean^{er}," to "stand att the nexte Geñall Court one houre in publique vewe with a white sheete of pap on his brest, haveing a greate D made vpon it," &c. (Page 172.)

6 Sept., 1636. Edward Woodley, "for attempting a rape, swearing & breaking into a house," "to be severely whiped 30 stripes, a yeares imprisonment, & kept to hard labo^{r}, wth course dyot, & to weare a collar of yron." (Page 177.)

A part of sentence subsequently remitted. (Page 193.)

5 March, 1638–9. John Davies, "for grosse offences in attempting lewdness wth divers weomen," "to bee severely whiped" "& to weare the letter V. vpon his breast, vpon his vppermost garment, untill the Court do discharge him." (Page 248.)

3 Sept., 1639. "Vpon his good carriage, was discharged from wearing the V." (Page 268.)

Richard Wilson "for stealing," &c., "to bee put fourth to service for 3 or 4 yeares, except he can procure X^{l}; also hee is to have a T set vpon his vpmost garment." (Page 268.)

3 Dec., 1639. "Elnor Peirce her husband was bound in 10$^{£}$ for her good behavio^{r}, & to bring her to stand in the market place the next market day wth a paper for her light behavio^{r}."

—— Quick. Same sentence for same offence. Margaret Hindersam the same. (Page 284.)

1 June, 1641. Davy Hickbourne, "for his grosse misdemeano^{r} & foule miscarriage," "to be severely whiped, to weare an iron coller till the Co^{r}t please & serve his master," &c. (Page 318.)

7 Sept., 1641. Thomas Owen "for his adulteros practises" "to be sent to the gallos wth a roape about his neck, & to sit upon the lather an houre, the roapes end throwen over the gallos, so to return to prison."

Sara Hales "for her miscarriage" a similar sentence, "& after to bee banished." (Page 335.)

7 March, 1642–3. Sentence for attempted bestiality was "to bee carried to place of execution & there to stand with an halter about his necke & to bee severely whipped." (Whitmore's Transcript of the "Barlow Copy," p. xxxi.)

7 June, 1642. Thomas Scot & wife, "fornication before marriage," "to stand an ho^{r}e vpon 16th present in the market place, with each of them a paper with great letters on their hatts." (*Ibid.*, p. xxxiii.)

1 Nov., 1654. Edwd Sanders. "Rape, tried in Ct. of Assistants in April; Jury and Magistrates not agreeing in the verdict, case went to

Gen. Ct. which found him not guilty of death, but deserving a high and severe censure; sentenced to be whipt and henceforth to wear a rope about his neck hanging down two feet long, to continue during Court's pleasure; if found over forty rods from his own house without the rope to be whipt for each offence." (Gen. Ct., M. C. R.)

11 March, 1673. Ruth Reed, attempted imposition of illegitimate child on her husband. Sentenced, if found in Colony two months after date, to stand "in the market place on a stoole for one hower wth a paper on hir breast wth ye Inscription," &c. (Rec. Ct. of A.)

1674. Anne, Negro. "Committed for having a bastard child & being under sore suspition of making it awaye," &c. Indictment for murder. Verdict, "Guilty of having a Bastard Child & privately conveyed it away." "Sentenct to stand on the Gallowes wth a Roape fastened about hir Necke to the Gallowes for one hower," "to be tyed to & whipt at the Carts Tayle to the prison wth thirty stripes," &c.

1675. Maurice Brett, indicted for adultery, found "not legally Guilty, but Guilty of very filthy carriage," &c. Sentenced to stand on the Gallowes "wth a roape about his neck," "whipt at the Carts Tayle," &c., and "banished." Mary Gibbs, the co-defendant, same sentence, except banishment.

13 Sept., 1675. Thomas Davis. Adultery. Verdict, "Not Guilty legally according to indictment, but found him Guilty of very Suspitious Acts leading to Adultery." Similar sentence, except banishment. The co-defendant the same.

1676. Peter Cole and Sarah Bucknam. Same offence, result, and sentence.

1677. Darby Bryan "chose to be tried by the bench," and co-respondent, Abigail Johnson, same. Sentenced to stand on the gallows "wth a roape about neck" and to be whipped at the cart's tail.

Ephraim Beamis, "witting and willing trepanning and pandering," &c. Similar sentence.

1683. Joshua Pike and co-respondent Elizabeth Crockett, adultery. Same result and sentence.

1684. Philip Darland and Mary Knights. Same.

16 Oct., 1691. Martin Williams, "a stranger," passing counterfeit money, "to stand three Several lecture days in Boston in the Pillory, one houre each time, after the lecture, wth a Paper signifying his crime," &c.

DISMEMBERING OR MUTILATION.

14 June, 1631. Phillip Ratcliffe "shall be whipped, haue his eares cutt of, fyned 40^{l} and banished out of ye lymitts of this jurisdiccõn, for vttering mallitious & scandulous speeches against the goũm^{t} & the Church of Salem," &c. (M. C. R., page 88.)

13 May, 1640. James Luxford, "for his forgery, lying & other foule offences," "to bee bound to the whiping poast, till the lecture from the first bell, & after the lecture to have his eares cut of; & so hee had liberty to depart out of o^{r} iurisdiction." (M. C. R., p. 295.)

1675. Maurice Brett, "for his contemptuous carriage confronting the sentence, [for adultery to wear the rope, be whipped, and banished, see *supra*,] to stand in the pillory, . . . his eare nayled to ye pillory & after an hours standing there to be cut of," and also fine and whipping.

1679. Peter Lorphelin, "Frenchman," "being Accused for Rash Insulting Speeches in the time of the late Conflagration thereby Rendring himself Justly suspitious of having a hand therein," was committed, and being examined "his chest & writtings" were ordered to be searched, and suspicious articles being there found, was sentenced "to stand upon the pillory two howers & then to haue both you^{r} eares cutt off by the executioner and to give bond," &c., "wch sentence was executed Accordingly."

1684. Joseph Gatchell, Blasphemy, "to stand in pillory, have his head and hand put in & have his toung drawne forth out of his mouth, & peirct throyh wth a hott iron." "The Marshall General taking necessary help with him to see ye execution of ye sentence performed."

1685. Uriah Clements (*supra*, under Branding), after that "to have his Right eare cutt of," and for a second offence "his left eare," &c.

DEATH.

4 Dec., 1638. Dorothy, the wife of John Talbie, "unnatural & vntimely death of her daughter," "to bee hanged." (M. C. R., p. 246.)

10 Dec., 1641. William Hatchet. "Beastuality," "to bee hanged, & the Cowe to bee slayne & burnt or buried." (M. C. R., p. 344.)

5 March, 1643–4. Iames Brittaine and Mary Latham. Adultery, both "condemned to death." (Barlow, p. xlii.)

1673. Beniamin Goad. Beastiality. Special Verdict: "If the prisoner's confession ag^{t} himself vpon his first apprehention and before his trial together with one evidence be sufficient for legal conviction, then we find him guilty according to the Indictment; otherwise not guilty of the fact but of a most horrid attempt," &c., "wch we leave to the determination of the Honored Court." Magistrates found him "Capitally Guilty." Sentenced to be hung, "wch was done accordingly." (Rec. Ct. of A.)

1674. Tom Indian. Rape. Sentenced to be hung.

Robert Driver. Murder of his master. Sentence given verbatim, and in same form as now used.

Nicholas Faevo^{r}. Same matter.

1675. Peter Rodrjego (Dutchman), John Roads, Richard Fowler, Peter Grant, Randolph Judson. Piracy. Sentenced to be hung.

17 Sept. Samuel Guile. Rape, "be hang^{d} till you be dead," &c. "W^{ch} was accordingly doun, Oct. 16, 1675."

21 Sept. Several Indians indicted for "ye murder of those at Nashaway." Six found not guilty. Several ordered "to be sent away," and one, "Litle Jno Indian y^{t} came as a messenge^{r} from being proved to be a murderer of the English in ye Warr was Condemñd to be hanged & was executed accordingly."

1676. Stephen Goble, Danl Goble, Nathl Wilder, and Daniel Hoare. Murder of three Indian women and three Indian children. Sentenced to be hanged.

Basto, Negro. Slave, &c. Rape on his master's daughter of three years. Sentenced to be hanged.

1681. Marja, Negro, serv^{t} of John Lambe. Arson. "Pleaded & acknowledged herself to be Guilty of ye Fact." Sentence of death; to be burnt at place of execution. See *infra*.

Cheffaleer Jack, Negro, servant, &c. Arson. "To be hanged & then taken down & burnt to ashes in the fier with Marja Negro."

William Cheny. Rape on his servant. Sentenced to be hanged.

"Secretary ordered to issue out warrants to the Marshal General for the execution of these three on the next lecture day presently after the lecture according to their sentences."

1685. James Morgan. Murder. Sentenced to death.

1689. Hugh Stone. Murder of wife. Sentenced to death.

3 Jan., 1689–90. Thomas Hawkins. Piracy in Massachusetts Bay three leagues from Half Way Rock.

Thomas Pound, Thomas Johnston, Eleazer Brick. Piracy in Vineyard Sound.

John Sickterdam, William Dunn, Richard Griffin, Dan[l] Lander, W[m] Warren, Sam[l] Watts, W[m] Coward. Peleg Heath, Thomas Storey, Christopher Knight, — some of them for Piracy and Murder, — all sentenced to death.

1691. Elizabeth Emmerson. Murder of her illegitimate twins. Sentenced to death.

IN THE GENERAL COURT, 12 MARCH, 1637–8.

"Ordered that the 3 Adulterers, John Hathaway, Rob[r]t Allen & Margareet Seale, shalbe severely whiped, & banished, never to returne againe, vpon paine of deathe."

COURT OF ASSISTANTS.

SOME MISCELLANEOUS SENTENCES.

1676. Jn° Flynt. Indicted for murder. Verdict of manslaughter. Fined 20£ to County, 20£ to the father.

Peter Bent. Murder. Verdict: "Killing by Chanc Medleing, by Casualty." 10£ to County, 20£ to widow.

Sam[l] Hunting. Murder. Verdict of Manslaughter. 20£ to widow, 5£ to County.

1680. John Dyer. Murder of an Indian. "Manslaughter." "Sixe pounds to widow," "i. e. 20s downe, in or as money — & 20s more for five years successively."

1683. Elizabeth Payne. Murder of her illegitimate child. Found "greatly negligent," &c., "to be whipt 30 stripes for her fornication."

James Fuller, "being led by instigation of the divill did wickedly call upon or pray to the Divill for helpe, & hath at seueral times had familiarity wth him." "Not guilty according to the Indictment," but "considering of his wicked & pernicious willfull lying & continuance in it till now putting the country to so great a charge." Sentenced to fine, 30 stripes, 5£ for charges, and in default of payment "left to Treasurer of ye Country to ship him of & dispose of him as he can, not exceeding foure yeares."

William King. Blasphemy. Evidence of madness. 20 stripes given.

1678. Bethyah Getchell. Adultery. "Not guilty according to indictment, . . . but enjoyned to appeare before next County Court," &c., "to answer for her notorious lying."

1676. Walter Gendall. "Endeavoring to betray the inhabitants into the hands of the enemy in time of ye Indian War"; to "run the Gantelop through the Military Companies in Boston wth a roape about his necke, — forfeit all his lands, — and be banished, on penalty of perpetual imprisonment if he returne."

John Watts. Same, and "trading powder to the Indians," — "to run the Gautelop," &c., "bond of 100£."

1680. Thomas Davis and Jno Eggington. "Convicted of being two incorrigible theeves & Robbers," "also for many reiterated Oaths & cursings of themselves & others"; "threatening if loose to burne the Towne," &c. Sentenced to 20 stripes, and to be returned to prison; afterward breaking prison, and stealing again, "to restore treble damages," &c., and in default, "to be sold & sent to any of the English Plantations — & return no more on payne of death."

SPECIAL COURT, 1686-1687.

Peleg Heath, — "felonious stealing.," &c., — "pleaded guilty & praying the benefitt of Clergie was called to the booke & readding was burned in the left hand with ye letter T."

Richard Hulins, John Stickey, Thomas Waters, William Hawkins, Joseph Aramatu, similarly punished.

Charity Williams, "Stealing goods," "pleaded guilty, praying the Benefitt of the Statute of Jacobi in favour of women committing small felonies," was burned in left hand with letter T.

Mercy Windsor similarly punished.

John Neponet alias Nemasit. Murder. Sentence of death.

Thomas Waters, second offence, benefit of clergy not allowed. Sentence of death. Third offence had sentence as above.

SUPERIOUR COURT OF JUDICATURE.

DEATH.

1692. Vol. I. Records. There are several trials for Witchcraft recorded in full, and of extreme interest. In three of these there is a verdict of guilty, and the ominous conclusion: "The Court Ordered the Keeper of the Goale to take care of the Prisoner, Acording to Law."

10 Jany. Sarah Wardwell. (Page 14.)
11 " Elizabeth Johnson, junior. (Page 18.)
11 " Mary Post. (Page 21.)

25 Apr., 1693. Elizabeth Emerson, convicted of Murder in 1691, and sentence of death ordered but not pronounced, "brought to the Barr" and sentence passed. (Page 50.)

Grace, a Negro. Murder. Death. (Page 51.)

Jan., 1693–4. Jacob, an Indian man. Murder. Death. (Page 94.)

1694. "Zachalenaco, otherwise called Zechariah, an Indian man of Kycomocho in the County of Suffolk." Murder. Death. (Page 100.)

1695. Joseph Hyde, an Indyan. Murder. Death. (Page 149.)

1696. Susanna Andrews. Murder. Death. (Vol. II. p. 49.)

John and Esther Andrews, parents of above, "were found guilty of death and so pronounced, as accessory," &c.

1698. Sarah Smith. Murder. Death. (Page 193.)
Sarah Threeneedles. Murder. Death. (Page 199.)

BRANDING.

1693. Samuel White. Robbery. "To be branded in the Forehead the letter B," treble damages, costs, &c. (Vol. I. p. 73.)

SOME MISCELLANEOUS SENTENCES.

1693. Nathaniel Blackledge and John Chester. Forgery of Certificate. Fined. "Thes Fines were ordered to be received by the Clerk to buy seale & book of Record for the Court." (Page 52.)

1694. Hannah Newell. "Adultry by her owne confession," &c. "Fifteen stripes Severally to be laid on upon her Naked back at the Comon Whipping post."

Lambert Despar, the co-defendant, "twenty five lashes, . . . and that on the next Thursday Immediately after Lecture he stand upon the pillory for the space of one full hower with Adultry in Capitall lett^{rs} written upon his brest." (Page 129.)

1696. William Veazey. "A Bill of Indictment was preferred and found by the Grand Jury . . . for High Misdemeanour, in open Contempt of His Maj^{ties} Royal person and Government here established," &c.

The case came on for trial 27 April, 1697. He was presented "for that the Authority of this Province Assembled in the Great and Generall Court haveing Ordered & appointed . . . a Solemn day of Thanksgiving to Almighty God for his Great Mercy in the Discovery of the late Hellish plot and Conspiracy to Assasinate his Maj^{ties} Royal person, and by the s^{d} Act or Order did Strictly inhibit all Servile Labour upon that day: William Veazey . . . in open contempt . . . did plow amongst his Corne"; and furthermore questioned the "Setting apart dayes of Thanksgiving and Humiliation"; and also the King's title to the Crown. He "pleaded guilty." "Ordered That he pay the Sum of Tenn Pounds Fine to the King; that he be set in the pillory in the Market place in Boston tomorrow ab^{t} noon, there to stand by the Space of One Howr," &c. (Vol. II. p. 75.)

1698. Francis Dormer, "having an Information drawn up against him" for "false and Scandalous words and expressions touching and concerning his Excellency Richard Earle of Bellomont," "pleaded guilty" "to this Indictment," and was sentenced to "stand in some publick place in this Towne for an howrs space on a fryday at twelve

o'clock with a paper on his breast Signifying his Crime," &c. (Vol. II. p. 202.)

This dry list lacks, of course, all the attraction of the archaic quaintness and the dramatic interest of the full records of the cases, and is intended only as a mere skeleton.

Mr. Henry E. Woods communicated the intelligence that there was formed at North Brookfield, on 26 December, 1894 —

THE QUABOAG HISTORICAL SOCIETY.[1]

Its objects, as defined by its By-Laws, are "To unite the citizens of those towns which include the ancient Quaboag District in an effort to collect and preserve all the historical matter belonging to this same section, to stimulate a local pride in, and a love for, antiquarian research by the preservation of relics and the marking of memorable sites within the borders of these towns."

Mr. John Elbridge Hudson, of Boston, was elected a Resident Member.

[1] This Society was incorporated 22 March, 1895.

MARCH MEETING, 1895.

A Stated Meeting of the Society was held in the Hall of the American Academy of Arts and Sciences on Wednesday, 20 March, 1895, at three o'clock in the afternoon, Dr. Gould in the chair.

The Records of the February Meeting were read and approved.

The Corresponding Secretary communicated the following letter from our associate, Mr. Charles H. Davis : —

43 Cedar Street, Worcester,
March 14, 1895.

Andrew McF. Davis, Esq.,
Corresponding Secretary.

Dear Sir, — I do not pretend to know anything about maps, but a friend who is in the insurance business has recently called my attention to the fact that the maps issued to the insurance companies covering the different cities of the Commonwealth, when taken in connection with the correction slips, furnish a complete history of the growth and progress of these places.

Each of these maps gives a ground-plan of the portion of the city which it represents. It also furnishes the means of determining whether the several buildings therein defined in outline are constructed of wood, brick, iron, or stone, and gives various other details of construction, which are of special interest to insurance people, but which are also of value to those who care to preserve a record of the changes of the place.

So far as I know, not a single public library, not a single historical or antiquarian society, has undertaken to make a complete collection of the maps of this character, a collection in which it is evident that students of Massachusetts history are greatly interested. I have been told that some years ago the Boston Public Library purchased the Boston maps and also subscribed for the correction slips, but, so far as I can learn, this subscription was not maintained. The effort to

secure this valuable contribution towards the history of Boston apparently died in its birth.

I have thought it worth my while to call the attention of The Colonial Society to this subject. I believe, if our libraries and collectors will turn their attention to this field, they will find it not only fallow, but fertile.

Yours very truly,

CHARLES H. DAVIS.

Mr. ANDREW MCFARLAND DAVIS said that he had devoted some thought to the subject of the foregoing letter, and, in co-operation with the writer of the same, had gathered some information relative to these Insurance Maps.

The catalogue of these maps, published by the Sanborn-Perris Company, contains the names of one hundred and thirty-seven cities and towns of Massachusetts. The sheets devoted to Boston are comprised in six bound volumes, and include also Cambridge, Charlestown, and Jamaica Plain. They are of large folio size, and are on a scale of fifty feet to the inch. Brockton, Chelsea, Fall River, Haverhill, Lowell, Lynn, New Bedford, Salem, Springfield, and Worcester are also furnished in bound volumes, one being devoted to each city.

Mr. Davis exhibited a sample copy of one of the Sanborn-Perris maps, showing how, by means of different colors, the materials are designated of which the buildings are constructed. The key to the map also furnishes the means of interpreting the various marks and signs which denote the number of stories of the buildings, their relative height, the materials of which their roofs are composed, and various other details not included in ordinary maps.

Material changes, caused by the alteration of old buildings or the erection of new, of course require recognition in these maps, if they are to be of value in determining fire exposures. This is effected by the issue of correction slips, covering the portions of the maps which are affected by the changes. These are drawn to the same scale, and in actual use in an insurance office are pasted directly upon the map where they belong, so that the maps are kept constantly up to date. These slips of course have no date, and, being fastened to the maps, all trace of the chronology of the changes which they record is not only lost, but the outline of the streets and buildings as they were before the changes is also

hidden from view. Mr. Davis pointed out that it would be easy to preserve untouched the original map, and to date and file the correction slips, thus preserving detailed records of the changes of all cities where these maps are in use.

Mr. Davis also submitted specimens of the insurance surveys, known as the Barlow Surveys. These cover individual manufacturing plants in the country and in the suburbs of the cities. They show in great detail the structures, their height, the provisions made for safety against conflagration and much other information. The printed matter furnished with each of these surveys is generally accompanied by a graphic delineation of the buildings composing the plant. Eight hundred of these surveys have been made in Massachusetts, and have been published by this company.

The Associated Factory Mutual Insurance Companies are nearly all of them Massachusetts or Rhode Island companies. Their efforts have been directed towards the improvement of mill construction and the reduction of fire risks. In pursuance of this object, they have caused to be printed carefully prepared inspections of the various plants of the members of these companies. Mr. Davis stated that he laid the subject before Mr. Edward Atkinson, President of the Boston Manufacturers Mutual Fire Insurance Company, and was by him presented to Mr. John R. Freeman, Chief of the Inspection Department of the Factory Mutuals. Through Mr. Freeman's kindly intercession, he was able to lay before the Society five copies of their standard plans, illustrating the progress of mill construction, showing the old style of factory roof, the barn roof, and the modern cotton mill, the old style paper mill, and the modern paper mill. A complete set of these beautifully executed plans, when combined with a set of the Barlow Surveys, would furnish at any given date a tolerably complete exhibit of the condition of industrial enterprises in Massachusetts.

In addition to these, Mr. Davis also exhibited a specimen copy of the Inspections and Plans of the New England Bureau of United Inspections. This is an organization composed of a few of the stock insurance companies, and a collection of their plans would supplement those already mentioned, and make nearly complete the record of the industrial condition of the State.

Mr. Davis concluded by saying he thought it was evident that it lay in the power of the different libraries of the State to secure collections of these maps and plans which would perpetuate the knowledge of the condition of the manufacturing interests in their respective vicinities. The enterprise of covering the entire State might prove too costly for any one institution to undertake, but it was clear to him that local collections could easily be made which in the future would prove to be of inestimable value. He did not doubt the Society would recognize the great value of the communication which had brought the attention of the Society to this subject.

Mr. Davis also called attention to the fact that there was issued a valuable set of real-estate maps of Boston. These maps could be found in some of our libraries, and he would leave to Mr. Edes a more complete description of them.

Mr. Henry H. Edes presented for inspection some volumes of the Bromley maps of Boston, and said: —

The Bromley maps do not give so much detailed information as those which Mr. Davis has been describing. They are used chiefly by persons, firms, and corporations having to do with transactions in real estate. The maps show a ground-plan of all the estates and public squares in the city, on a scale varying from fifty feet to the inch in the business sections to two hundred feet to the inch in the outlying, residential wards. The street lines and numbers, and the boundary lines and ownership of each estate, with the area in square feet, are clearly shown; and the materials of which the exterior walls of the buildings are constructed is indicated by the use of colors in printing the maps.

The Bromley maps cover the cities of Cambridge, Somerville, and Newton and the town of Brookline, besides the city of Boston, the area of which is shown in detail in ten volumes, such as are now before you.

The historical value of these surveys appears to me to be great, since they enable us to see at a glance the general aspect of a given locality and the proprietorship of adjoining and adjacent estates. What would we not give for a similar set of maps made during the Colonial or Provincial period of Boston's history! It is

true that rough maps have been made in recent years, and printed in the Memorial History of Boston and elsewhere, showing approximately the location of the residences of Boston's principal inhabitants; but such a set of maps as these, dating back one or two centuries, would give us an accurate picture of the houses and gardens at that time of *all* the people, — the lowly as well as the great, — and show us the curious old street lines which are known to-day only to the conveyancer and the antiquary.

The subject of Mr. Davis's letter was further discussed by several members.

Mr. Abner C. Goodell, Jr., read a paper on Capt. John Quelch, the Pirate, his exploits, trial, and execution, in 1704, comprising extracts from Notes to a chapter of the Resolves in the forthcoming eighth volume of the Province Laws, fully covering this memorable affair. By way of preface, Mr. Goodell recalled the note of the editors of the second volume of Judge Sewall's Diary, in relation to the capture of Quelch, that "it is somewhat surprising that so little remains on record in regard to Quelch's affair. We find nothing worth mention in the State archives;"[1] and stated that he proposed to show that it is quite possible to recover the minutest details of the piracy, of the capture, trial, execution, and subsequent proceedings. He then narrated the story of the deeds of Quelch and his companions, and the proceedings for their arrest, the expedition to the Isles of Shoals under Major Sewall, the capture of the pirates, their trial in Boston, the execution of Quelch and four others in Charles River, off a point of land below Copp's Hill on 30 June, 1704, and the sequel to what he termed one of the clearest cases of judicial murder in American annals. Perhaps the most trying ordeal which the sufferers underwent, Mr. Goodell observed, was the attentions of the clergy. Cotton Mather, who was habitually an interested spectator

[1] Sewall's Diary, ii. 105.

at public executions, labored for the benefit of their souls in his peculiarly harrowing and reproachful style. In the chamber of the prison on the Tuesday before their execution, he prayed for, preached to, and catechised them, as Sewall says, "excellently." He and another clergyman walked with them, as, guarded by forty musketeers, constables of the town, the provost marshal, etc., they marched in solemn procession to Scarlet's Wharf; and he there embarked with them on their melancholy voyage to the gallows, preceded by the silver oar of the Admiralty. The exhortations to the condemned, and Mather's long prayers, — in which he interlarded extravagant invectives against these unhappy men, with interjections and ejaculations, and warnings to the multitude of spectators crowded into boats upon the water and covering the adjacent shore, to profit by their terrible example, — were duly printed in the News-Letter, together with the dying speeches of the men. Sewall, in his account of the execution, says:—

"But when I came to see how the River was covered with People I was amazed. Some say there were one hundred boats; One hundred and fifty boats and Canoes, saith Cousin Moody of York. He told them . . . when the Scaffold was hoisted to a due height the seven malefactors went up; Mr. Mather prayed to them, standing upon the boat. Ropes were all fasten'd to the gallows (save King, who was Repriev'd). When the scaffold was let to sink, there was such a Screach of the Women that my wife heard it sitting in our Entry next the Orchard and was much surprised at it; yet the wind was sou'west. Our house is a full mile from the place." [1]

The offences for which Quelch and his companions were tried were committed on board a brigantine of about eighty tons, — the Charles, owned by Charles (afterwards Sir Charles) Hobby, Colonel Nicholas Paige, William Clarke, Benjamin Gallop, and John Colman, leading citizens and

[1] Sewall's Diary, ii. 109, 110, and *notes*.

merchants of Boston, — and the circumstances, briefly narrated, were as follows.

The Charles was fitted out by her owners as a privateer for an intended expedition against the French enemies of England in Acadia and Newfoundland. On the thirteenth of July, 1703, her commander, Captain Daniel Plowman, received from Governor Dudley a commission to command this private vessel of war in the pursuit of pirates and the Queen's enemies, together with instructions to govern his conduct during the cruise. As late as the first of August, the Charles, which in the mean time had been manned and equipped, was riding off Marblehead, and on that day Captain Plowman wrote to two of her owners informing them of his inability to take her to sea on account of his severe illness, and suggesting that they come the next day to "take some speedy care in saving what we can." In response to this letter, the owners went to Marblehead; but Plowman was then too ill to see them, although able to write to them again, urging them to have the vessel sent to Boston and there to have all things aboard of her landed, to prevent embezzlement, and dissuading them from the purpose of sending her out under a new commander, declaring that "it will not do, with these people" (meaning his crew), and that "the sooner" the "things are landed on shore the better."

Before the owners could take effectual measures to stop the vessel she proceeded to sea. Prior to her sailing, the crew, under the lead of one of their number, locked the commander into the cabin where he lay sick, and then, conformably to the resolution of Quelch, who came on board after the captain had been secured, they, under his command, made for the South Atlantic instead of their intended destination. Some time after Quelch came, the captain was thrown overboard, but whether alive or dead it does not appear. Off the coast of Brazil, not far from shore, between latitude seven degrees and thirty-six degrees

south, it appears that they captured, between the fifteenth of November, 1703, and the seventeenth of February, 1703–4, nine vessels — of which five were brigantines (the largest being of about forty tons); one was a small shallop; one a small fishing-boat; one other a boat not particularly described; and one a ship of about two hundred tons, loaded with hides and tallow and carrying twelve guns and about thirty-five men. All these vessels, apparently, were the property of subjects of the King of Portugal, an ally of the Queen of England;[1] and from them they took various commodities belonging to the Portuguese, such as fish, salt, sugar, molasses, rum, beer, rice, flour, earthenware, linen, cloth and silk, besides one hundred weight of gold-dust, gold and silver coins to the value of one thousand pounds or more, two negro boys, and some great and small guns, ammunition, small arms, sails, etc., — of the total value of some seven hundred pounds more. One of the vessels they sunk, and another they appear to have kept as a tender.

On the eighteenth of August the owners of the Charles, learning nothing certain of the fate of their vessel, and concluding from various circumstances that she was bound to the West Indies, wrote a letter (enclosing an official letter from Governor Dudley) to six plantations in the West Indies, respectively, setting forth their interest in her, and authorizing their correspondents to take proper steps to prosecute their claims and recover their property. No tidings of her, however, appear to have been received until after the middle of May, 1704, when her arrival was thus announced in the Boston News-Letter (No. 5): —

"Arrived at *Marble-head*, Capt. *Quelch* in the Brigantine that Capt. *Plowman* went out in, are said to come from *New-Spain* & have made a good Voyage."

[1] The treaty of amity and alliance between Great Britain and Portugal was signed at Lisbon, 16 May, 1703, and was renewed by Article xxvi. of the treaty of 1810.

The crew seem either to have landed at different points along shore, or to have quickly dispersed after landing; for some of them were at Salem, others at Marblehead, and others still at Boston, before all the arrests were made. They had not, however, been long on shore before so many circumstances transpired leading to the suspicion that they had committed acts of piracy against subjects of the King of Portugal, that the story which they had invented of recovering great treasure from a wreck began to be doubted; and even the owners of the Charles became so suspicious of their criminal misconduct that they informed against them, in writing, to avoid the penalties denounced against accessaries by the act of Parliament.[1]

The informers were Colman and Clarke, and the magistrates applied to were Isaac Addington, Secretary of the Province, and Paul Dudley, Attorney-General. This was on the twenty-third of May; and it would seem that Dudley immediately set out to capture them, since, on that day, Judge Sewall, who was returning from Newbury, records that at the tavern in Lynn he met Dudley "in egre pursuit of the Pirats,"[2] having already captured one whom he turned over to Sewall. Sewall sent the captive to Boston under guard of two men, charging them to convey him to Secretary Addington.[2]

On the next day, in the Governor's absence, Lieutenant-Governor Povey, in the performance of his official duty and in compliance with standing instructions to the Governor from the Privy Council, issued a proclamation for the arrest of the pirates and the seizure of their treasure, and for taking the offenders to Boston, for trial.

[1] By the following November, the Charles, being still the property of the same owners, had sailed upon another expedition as a privateer, under a new commission. See Province Laws, viii. 140, 525, Resolves, 1705–6, Chapter 62 and *note*.

[2] Diary, ii. 102.

On the twenty-sixth, news came from Rhode Island that five of Quelch's crew had purchased a small, decked boat and sailed, it was thought, for Long Island, in season to avoid arrest upon an order sent express from Boston. One of Quelch's men was seized by order of Governor Cranston and sent "from constable to constable" to Boston.

On the twenty-ninth, Governor Dudley issued another proclamation to the same purpose as Povey's, adding a prohibition against concealing the pirates or their treasure. In this proclamation the names of forty-two pirates are given, being one more than were inserted in the former proclamation.

On the sixth of June, several ounces of gold having been brought to the Council Board as part of the treasure taken by the pirates, a Commission of Inquiry was issued by the Governor, directing Samuel Sewall, acting Chief Justice of the Superior Court,[1] Nathaniel Byfield, Judge of the Admiralty, and Paul Dudley, Attorney-General, "to repair to Marblehead, & to send for and examin all persons of whom they shall have Information or just ground of suspition, [that they] do conceal and detain" gold and treasure brought in by the pirates, "either at Marblehead, or parts adjacent, and to take what they shall find into their hands; as also to secure any of the Pirates."

The Commissioners proceeded to Marblehead, by way of Salem, where they learned that two of Quelch's company were at Cape Ann, intending to embark on the "Larramore Galley," which was at that place under command of Captain Thomas Larramore, a noted privateer.

[1] Addington, who, after Winthrop's short term, succeeded Stoughton as Chief Justice, offered to resign his commission 23 July, 1703, but was suffered to retain it with the understanding that "no further service was expected from him therein at present," and that the Governor and Council would consider the subject of filling that place "as soon as possible." After this, and until Wait Winthrop was reappointed, 19 February, 1707–8, Sewall presided, and writs bore teste in his name.

It was upon the receipt of these tidings that Major Sewall undertook the expedition to the Isles of Shoals, already mentioned. The pirates were taken in company with Captain Larramore, who had befriended them; and seven of them, besides Larramore, his lieutenant, and his sailing-master, were brought into Salem, and thence marched in chains to Boston, where they were tried and sentenced by a Court of Admiralty, presided over by Governor Dudley, and which sat at the Star Tavern[1] from the thirteenth to the nineteenth of June.

[1] See a foot-note to Mr. Lindsay Swift's paper at the December, 1894, Meeting (*ante*, i. 409), on the location of the Star Tavern.

APRIL MEETING, 1895.

A STATED MEETING of the Society was held in the Hall of the American Academy of Arts and Sciences on Wednesday, 17 April, 1895, at three o'clock in the afternoon, the CORRESPONDING SECRETARY in the chair.

After the Minutes of the last Meeting had been read and approved, the Chair announced the death of the Hon. LEVERETT SALTONSTALL, a Founder and one of the Vice-Presidents of the Society elected at its first Annual Meeting.

Mr. PHILIP H. SEARS, a classmate of Mr. Saltonstall, spoke as follows: —

My first acquaintance with Leverett Saltonstall was in July, 1840, when we met at Cambridge to be examined for admission to the Freshman Class in Harvard. I had fitted for college at Phillips Academy, Andover, and he had fitted in the school at Salem. I arrived a little late, and was taken by President Quincy to the recitation-room of Tutor Bartlett, who was then examining in Virgil the candidates from Salem, — Leverett Saltonstall, Joseph Peabody, Stephen G. Wheatland, Richard D. Rogers, George Howes, and William G. Dix. I then saw Saltonstall for the first time, and liked him from the first sight. Through most of our college course we sat side by side in the Greek recitation-room of Professors Felton and Sophocles, and in other recitation-rooms. After we became members of the Suffolk Bar we met very frequently, both socially and in business transactions and the trial of cases. I may mention particularly the case, tried before Judge Morton, of Forbes *v.* The Old Colony Railroad Company, in which he was counsel for the plaintiff and I was counsel for the railroad company.

In all these relations with Saltonstall the trait in his character that always struck me most forcibly was his high sense of honor, which appeared on every occasion. Nothing unbecoming a man would be tolerated by him for a moment. He was, indeed, the

very soul of honor. I recollect that when he dissolved a partnership in which he had been associated for some years I asked him why he had done it, and he replied that his partner had among his clients a crowd of butchers, bakers, and candlestick-makers who had such a low sense of business honor that he could stand them no longer.

He carried the same sense of honor and high principle into public life. When he became Collector of the Port of Boston there was in an eligible place in the Custom House a Republican gentleman with whom both he and I were acquainted, for whose removal great efforts were made. I spoke to him about the retention of this gentleman, and his reply was: "He is the right man for the place, and not all the politicians in the country can bring about his removal;" and they did not accomplish it.

Another trait in his character with which the members of the Harvard Class of '44 were always strongly impressed was the warmth and constancy of his friendships, and his great cordiality in the expression of friendly feelings. He always attended the meetings of the Class on Commencement Day, and whatever would promote the honor or welfare of the Class or any of its members found in him an advocate and friend. If any of the Class happened to take part in any cause of charity or of public interest, he was sure to have Saltonstall's co-operation and aid. This Class-feeling, which seems now to be dying out at Cambridge, was with him, as with all members of the Class of '44, a deep sentiment as lasting as life.

I might refer to many other qualities in his character, but as there are several other gentlemen here who are expected to speak I will occupy no further time.

The Rev. Edward G. Porter followed with these remarks: —

Any one who knew Mr. Saltonstall — and some of you knew him much better than I did — must have been impressed with his broad and generous nature. His bearing and utterances on all occasions indicated a spirit of true magnanimity as agreeable as it is rare. There was evidently nothing petty or partisan about him. He always seemed to me to be the very soul of honor.

Those traits which Mr. Sears has recalled from college days show that his classmate was endowed with a certain nobility of character from the beginning, and we are glad to-day to bear witness to the fidelity with which he maintained his own high standard to the end.

We have seldom seen a man of his age so fresh and athletic in appearance, so youthful and buoyant in manner and in speech. For this reason doubtless he seemed many years younger than he really was. This was noticeable at the last Commencement, when he spoke for his Class, at its Fiftieth anniversary, with the same familiar, manly tones of loyalty to the Class and the College which always characterized him.

At the time of the Centennial celebration at Philadelphia in 1876, Mr. Saltonstall was one of the Commissioners from Massachusetts. As I was appointed among those who represented the State in the department of History, I had occasion to consult him in the execution of several plans, and I found him always obliging, well-informed, and enthusiastic. He did us good service during that hot summer by his unwearied labors, — meeting his associates in council, speaking at numerous public gatherings, and honoring the State by his uniform courtesy and his genuine patriotism.

I remember sitting with him on the platform in the rear of Independence Hall at the great Fourth of July festival, when Dom Pedro, the public-spirited Emperor of Brazil, who sat near us, frequently turned to express his pleasure in hearing the address of Mr. Evarts and the poem of Bayard Taylor. Every one felt that Mr. Saltonstall was the peer of the representatives of the different States and nations assembled at Philadelphia during that memorable year.

I leave it to others to speak of his services as Collector of the Port, and in other positions of honor and trust. We all know how well he acquitted himself in every station to which he was called.

The Hon. GEORGE S. HALE, also a classmate of Mr. Saltonstall, then said: —

I am very glad to join in the tributes of my associates to my old friend and classmate. My last recollection of him is associated with the Fiftieth anniversary of our graduation, when he represented

his Class at the dinner of the Alumni with an eloquent warmth which gratified them and all his other hearers. He was a man of high and generous impulses, untainted in his public and private service by personal interest, of dignified and gentlemanly bearing, a worthy descendant of our best New England stock, and a legitimate heir of its fine qualities. His public service in a difficult and important position at a critical time entitles him to our grateful recognition. Under trying circumstances, when a faithful example of disinterested fidelity to the cause of Civil Service Reform was of peculiar importance, he showed — and led — the way to the administration of a political office as a public trust. In Chaucer's phrase, "A veray parfit, gentle knight."

Mr. Henry H. Edes spoke as follows: —

Lord Bacon said, nearly three centuries ago, —

" . . . it is a reverend thing to see an ancient castle or building not in decay, or to see a fair timber tree sound and perfect; how much more to behold an ancient noble family, which hath stood against the waves and weathers of time! for new nobility is but the act of power, but ancient nobility is the act of time."

In his learned Annotations upon the Essay[1] containing this passage, Archbishop Whately preserves an interesting observation of Bishop Warburton. During some angry dispute in the British House of Lords between a peer of noble family and one of a new creation, he said that —

" high birth was a thing which he never knew any one disparage, except those who have it not; and he never knew any one make a boast of it who had anything else to be proud of."

I never read these golden sentences without thinking of Mr. Saltonstall, whose friendship I enjoyed for many years. He was proud of his lineage and of the honorable place which his family has held in private life and in public station, in every generation and in varied employments, from the very beginning of our Colonial history. Sir Richard Saltonstall, the first and second Governors

[1] Essay XIV., Of Nobility.

Winthrop, Governor Leverett, and the Apostle Eliot were among his ancestors: so also were the two Elisha Cookes and Richard Middlecott, whose name he gave to his eldest surviving son. Nor were his distinguished forbears confined to the Colony of the Bay, for he had in his veins some of the best blood of the "Mayflower," including that of Governor Edward Winslow. But Mr. Saltonstall's pride of family was so tempered with humility and an unaffected modesty that it was far removed from that boastfulness of which Bishop Warburton speaks. Our associate often heard recalled, and with evident satisfaction, as he sat at table with his guests, the great deeds in the field, the council chamber, the legislative hall, the pulpit, or upon the bench, of the men who looked down upon his hospitable board from the canvases of Copley and other earlier artists of less note.

For reasons well known to us all, Mr. Saltonstall's public service, until toward the close of his life, was in the field of philanthropy and education rather than in public office. It was, nevertheless, of great importance and value, as such unpaid service always is when rendered by an educated man of high character, ability, and zeal.

A few weeks before Mr. Saltonstall was appointed Collector of the Port of Boston and Charlestown, when it was known to some of his friends that his name had been presented to the President in connection with that important office, he called upon me to acknowledge in person some little act of friendship. During our conversation, I expressed the earnest hope that Mr. Cleveland would give fresh evidence of his sympathy with the proposed reform of the Civil Service by naming him for the Collectorship. Mr. Saltonstall thanked me, and said: —

> "I shall not make application for the place, or lift my hand to influence the President's choice; but if the honor comes to me unsought, it will be a great satisfaction to be able to prove in office the absolute sincerity of my opinions out of office during the past twenty years respecting the proper administration of the civil service of the government."

How nobly he acquitted himself during his term of office is a matter of history. The appreciation of his eminent services by the merchants and many of the most prominent citizens of Boston, without distinction of party, — as evinced by their inviting him to

a public dinner and to sit for his portrait, which now hangs in the Collector's room at the Custom House, — was in striking contrast with the haste at Washington to replace the most conspicuous Civil Service Reformer who had ever sat in the Collector's chair by a successor whose political opinions accorded with those of the new Executive.

Mr. Saltonstall was keenly sensitive upon all points of honor, most genial and hearty in manner, and an intense hater of shams. Fond of the country and of athletic sports, his out-door life upon his beautiful estate at Chestnut Hill and his daily horse-back ride account in no small degree for that robust health which he enjoyed for many years. His great heart was stirred by indignities offered to the poor and lowly more readily perhaps than when attempted upon the rich and influential. An illustration of this is found in the incident, familiar to some of his friends, of his having chastised upon a public street in Boston a brutal cab-driver who was cruelly treating a poor apple-woman as our friend was passing her stand.

Mr. Saltonstall's moral courage, urbanity, and high-mindedness comported well with his firm and reverent religious faith, which supported him through the sorrows and bereavements from which his singularly happy life was not exempt, and enabled him to bear with fortitude and resignation the long and painful illness which he knew must be fatal.

In taking note of our friend's departure, we cannot fail to be impressed with a sense of peculiar loss. Exerting upon the community the benign influence of a pure life, a dignified presence, and courtly manners, he was one of the rare few who are universally esteemed while they are living and mourned when dead. Gifted by inheritance as well as by culture with those chivalrous traits the possession of which the word "gentleman" implies, he would have felt himself disgraced and humiliated to know that he had ever unnecessarily wounded any human heart. His sincere cordiality, his ardent sympathies, his love of fair play, his honest indignation at everything wrong or mean, manifested in his personal intercourse as well as in his public relations, so eclipsed all his qualities of deportment as to make a refined sociability his leading trait, and his friendship most to be coveted in life, and most missed now that he is gone.

Mr. HENRY WILLIAMS said: —

I did not know Mr. Saltonstall personally, Mr. President, except by sight, but I had a brother who knew him well, and who never spoke of him but with respect. I had met him casually on many occasions; for you know, Sir, the lines of life often approach very near to one another without ever crossing. I desire, however, to add one word to what has been already said by those who have preceded me. I recall an incident at the Alumni Dinner last year at Cambridge in connection with Mr. Saltonstall, and it is that of which I wish to speak. A custom has come up of late years of calling on one of the graduates of fifty years' standing to represent his classmates, and, in connection with this, to assign them a place near the speakers' table. Now, it has been my office for some time, as Class Secretary, to lead in the few survivors of my own Class who attend the dinner; and we are rather tenacious of the prerogatives which gray hairs and approaching dulness of hearing bring with them. So, as usual, when I reached an eligible point for hearing the good things said on the platform, I was confronted with a printed legend that the table which I had selected for myself and two or three of my class was "*Reserved*." By way of parenthesis, let me recall what James Freeman Clarke says in a book published by him after his return from a short trip to Europe. His chief object was to visit the famous cathedrals of England. Arriving at York, I think it was, he went at once to see the Cathedral, which was then undergoing repairs, and he says, "I found over the main entrance, '*Positively no Admittance,*' and *so I entered!*" Acting on this principle, the small squad of '37 took their seats where it seemed good and fitting; but we had hardly time to congratulate ourselves upon being within easy earshot of what was to be heard from those seated above us, when Mr. Saltonstall came in, apparently with those who represented his Class of '44. I recognized him at once, but I did not know beforehand that it was his office to speak for his classmates. However, he spoke to the waiter near us, took in the situation at a glance, saying, "*It is just as well*," and passed on to the other end of the table, from which, with the rest of the company present, we afterwards enjoyed his eloquent remarks and his interesting College reminiscences. Now, Sir, this is but a trifling incident, yet it is an

instance of the gracious courtesy of the man. It touched me at the time; I have often thought of it since; and I could not resist the impulse to mention it, after listening to the remarks which we have just heard concerning Mr. Saltonstall.

Mr. HALE offered the following Resolution, which was unanimously adopted by a rising vote: —

Resolved, That the members of The Colonial Society of Massachusetts desire to express and place upon their records their thorough appreciation of the high qualities of their associate, the Honorable LEVERETT SALTONSTALL, of his manliness, his high sense of honor, his assistance in promoting the cause of Civil Service Reform, his fearlessness in political action under trying circumstances, and of his eloquent enthusiasm for the Reform which he advocated by example and precept.

The Hon. JOHN F. ANDREW and Mr. NATHANIEL CUSHING NASH were appointed a Committee to examine the Treasurer's Accounts;[1] and the Hon. WILLIAM E. RUSSELL, and Messrs. PHILIP H. SEARS and CHARLES S. RACKEMANN, a Committee on Nominations.

Mr. HENRY WILLIAMS announced the organization, on 14 December, 1894, of

THE TOPSFIELD HISTORICAL SOCIETY.

"Its object is the collection, preservation, and study of all historical materials relating to the town of Topsfield; and it also shall be the purpose of the Society to encourage the study of Natural History in its various branches."

Mr. FRANCIS H. LINCOLN read some extracts from the Journal of Lieut. Benjamin Beal, of Hingham, Mass., a soldier of the American Revolution in 1775–1776, which he had recently discovered among his family papers.

[1] At a meeting of the Council held 15 October, 1895, the President appointed Mr. Gardiner M. Lane to fill the vacancy in this Committee occasioned by Mr. Andrew's death, which occurred on the thirtieth of May.

The daily entries in this Journal chronicle the experience of Lieutenant Beal from 17 March, 1776, the day of the evacuation of Boston, to 6 December of that year. He was lieutenant in Capt. Charles Cushing's company, Colonel Greaton's regiment.

After the evacuation of Boston this regiment and four others marched to New York; thence they embarked for Albany, where they arrived 25 April. They reached Stillwater 27 April, and Fort Edward 29 April. Thence by land and water they went to Montreal, where they arrived 21 May.

The disasters and sufferings of the troops in that unfortunate and fruitless expedition are matters of history, and Lieutenant Beal in his Journal confirms them by relating the personal experiences of himself and his comrades. For the purpose of showing the character of the document, Mr. Lincoln read from its pages certain selected extracts which brought vividly before the Society the sufferings of the troops. The reading was accompanied by explanatory remarks on the part of Mr. Lincoln for the purpose of refreshing the memory of his hearers as to the details of the expedition. He also pointed out the quaintness of some of the spelling, and the originality of many of the expressions used by the journalist.

The reading was listened to with interest, and the whole matter was referred to the Committee of Publication; but Mr. Lincoln was of opinion that there were not enough new facts in the diary to justify its publication.

Mr. FREDERICK LEWIS GAY communicated the following information on the location in Boston of one of the mansion-houses of Governor Winthrop, — that in which he lived longest, — which appears to have escaped the notice of historians hitherto: —

The site of Governor John Winthrop's house in Boston is a point of interest to local antiquaries and to many strangers within our gates. Those writers who allude to the subject agree in placing Winthrop's house on the piece of land once known as "the Green," opposite the eastern end of School street, but they fail to mention the fact that he had previously lived elsewhere in Boston. A writer in the Memorial History of Boston, for instance, in speaking of the Governor's later home says: "for *nineteen years* it was the residence of John Winthrop, the foremost man in the colony of Massachusetts Bay; in it he died in 1649." [1] This house was bought by the Rev. John Norton in 1659. At a later day it became the parsonage of the Old South Church, and in it lived Willard, Sewall, Prince, and other ministers well known in their day and generation. The house was torn down by the British soldiers during their occupation of Boston. My purpose is to show that the Governor lived less than six years in this house, and that his home during the earlier part of his residence in Boston, perhaps for twelve years, was situated on land a few feet south of State street between Kilby and Congress streets.

"The Green" was bounded on three sides by Milk and Washington streets and Spring lane. There is nothing to indicate that any building was erected on it before 1643. This land, "which was the Governor's first lot" as we are told by Winthrop in his History of New England, had been offered to the First Church in 1639 as the site for a new meeting-house. Several members addressed the Governor on the subject, beginning their letter in these words: —

"The fruit of your Worship's Liberall Disposition (which the God of all fulnesse will reward) in so freely offering the Greene to place the meeting-howse thereon causes us as thankefully to Acknowledge it."

The offer, however, was not accepted, although a strong plea was made in favor of building there. In November, 1643, Governor Winthrop conveyed to his son Stephen "all that my lott or parcell of land in Boston aforesaid called the Greene lyeing by the spring." [2] This description of the property conveyed says nothing about a house. That no house was then standing on the ground is

[1] Memorial History of Boston, i. 481.

[2] Suffolk Deeds, i. 102.

to be inferred from this omission, coupled with the following provision of the deed: —

"Provided alwayes that I the said John Winthrop and Margaret my wife may have and use one halfe of the said parcell of land called the Greene and one halfe of *the buildings to be there uppon erected* for the terme of our lives."

One of the buildings thereupon erected after the date of this deed was the house in which the Governor spent his last days. As he died in March, 1649, the time covered by his residence in it could not have exceeded six years.

Governor Winthrop suffered heavy financial losses in 1639 through the dishonesty of his bailiff, James Luxford, whom he had trusted with the management of his farm. He was forced to part with his lands at different times in his endeavor to satisfy his creditors. In so doing, he conveyed to William Tyng, Valentine Hill, and eight others, "his mansion house in Boston," naming as the consideration, "divers summes of money wherein he stands indebted to them and divers others." According to the record, "this was by an absolute deed of sale dated the 26 of the 7 month, 1643."[1] This was about six weeks before Winthrop conveyed "the Green" to his son Stephen. The question of the location of this mansion house, evidently the Governor's home before September, 1643, is best answered by tracing its subsequent ownership.

One of the creditors named above, Valentine Hill, a public-spirited merchant who was for several years one of the Selectmen and a member of the Ancient and Honorable Artillery Company, came into possession of the house.[2] He in turn, "by his deed bearing date May 24, 1649," sold to Richard Hutchinson, of London —

"all that mansion house in Boston formerly the house of John Winthropp, Senior, of Boston, Esquire, with all the yards, orchards, gardens, and all the housing thereon erected, the house and garden then in possession of Capt. Robert Harding excepted."

The property is described as bounded with the street (afterward State street) and the houses of Capt. Robert Harding, William Davies, and John Holland on the north; the cove east; the creek

[1] Suffolk Deeds, i. 45.

[2] For his title, recently discovered, see 2 Proceedings of the Massachusetts Historical Society for November, 1896, xi. 185–187.

and Mr. Stephen Winthrop's marsh, south; house and land of Mr. Thomas Leverett, west.[1]

In the description we need to note only the sites of Harding's and Leverett's houses. Harding's lot was on the westerly corner of the present State and Kilby streets, and was later the site of "The Bunch of Grapes" tavern. When Harding sold his house to Edward Lane in 1651, it was described as "near adjoining to a messuage late belonging to John Winthrop deceased."[2] Leverett's lot was on the easterly corner of State and Congress streets.

Richard Hutchinson, of London, brother-in-law of Anne Hutchinson, had large interests in Boston, but he does not appear to have been a resident in this country. His ownership of that part of the Winthrop estate under consideration lasted until 1 March, 1657–8, when he sold it, with certain immaterial exceptions, to William Brenton, distinctly including in the sale the "mansion house, heretofore the house of said John Winthropp, Senior."[3]

The Harding lot spoken of above, passing successively through the hands of Edward Lane, John Leverett, Thomas Broughton, and others, was bought by Joshua Atwater, in 1660, when it was said to be bounded westerly by the house of William Brenton.[4]

William Brenton, a prominent man in Boston and Newport, was for several years Governor of Rhode Island. Selling portions of the Winthrop land from time to time, he parted with the mansion-house lot fronting on State street in 1671. The lot had a frontage of 114 feet, an average depth of about 115 feet, and measured 121 feet in the rear. Brenton sold the house and westerly two thirds of the lot to Elisha Hutchinson, 10 April, 1671.[5] On the west Hutchinson was bounded by Governor John Leverett, who had succeeded his father, Thomas Leverett, in the ownership of the lot at the easterly corner of State and Congress streets. The remaining easterly third, running back to Brenton's orchard, with a kitchen thereon, was sold by Brenton, 12 April, 1671, to Joshua Atwater, who already owned the adjoining Harding lot at the northwesterly corner of State and Kilby streets.[6] Atwater had occupied, as Brenton's tenant, the lot which he now bought, the deed describing it as land "on which said Joshua Atwater hath built a faire dwelling howse."

[1] Suffolk Deeds, iii. 124.
[2] *Ibid.* i. 321.
[3] *Ibid.* iii. 124.
[4] *Ibid.* v. 231.
[5] *Ibid.* vii. 153.
[6] *Ibid.* vii. 302.

By this account of the changes in the ownership of the Winthrop mansion-house lot from 1643 to 1671, we believe that we have shown that the site of the house is to be found near, if not actually on, the ground now covered by the main hall of the present Exchange Building.

Mr. ANDREW MCFARLAND DAVIS made the following communication concerning Sir Thomas Mowlson: —

Advantage has already been taken of the opportunity afforded through the publication of these Transactions, to make public certain facts which had been obtained concerning Sir Thomas and Lady Mowlson. The object of the present communication is to add, to what has already been published, such information as I was able to obtain during a visit made last summer to the little chapel in Cheshire erected by Sir Thomas in 1627. Hargrave is between five and six miles, in a southerly and easterly direction, from Chester. The chapel figures on the British Ordnance Maps as St. Peter's Church. The name Hargrave appears in connection with the parish or hamlet, and also in special designations, such as Hargrave Old Hall, Hargrave Farm, and Hargravehall Farm; but one will look in vain for Hargrave-Stubbs, the title by which the hamlet is designated in Ormerod's History of Cheshire.[1] The inhabitants seem to be content with the shorter title of Hargrave as a means of describing the locality, and, with the exception that Hargrave-Green is sometimes spoken of, are apparently unconscious that they could lay claim to any other. The present rector of the parish, Reverend Thomas J. Evans,[2] is a man of antiquarian tastes, and has taken steps to obtain information as to the founder of the chapel, and to protect from the ravages of time

[1] The History of the County Palatine and City of Chester . . . incorporated with a republication of King's Vale Royal and Leycester's Cheshire Antiquities, By George Ormerod, Esq., LL.D., &c., &c., &c. Second edition, revised and enlarged by Thomas Helsby, Esq., of Lincoln's Inn, Barrister-at-Law. In three volumes. London, 1882, ii. 805.

See also Magna Britannia; being a concise topographical account of the several Counties of Great Britain, by the Rev. Daniel Lysons, A.M. . . . and Samuel Lysons, Esq., F.R.S. London, 1810, iii. 798.

[2] My kindly reception by Mr. Evans deserves a more grateful acknowledgment than I can give in these pages.

THE PORCH GABLE OF ST. PETER'S CHURCH,

HARGRAVE, CHESHIRE.

Built at the cost of Sir Thomas Mowlson, 1627.

such memorials as are under his charge. Over the entrance to the chapel, in the gable of the porch, there is a tablet inserted in the wall bearing the sculptured arms of Sir Thomas, and beneath these an incised inscription. The tablet is of the red sandstone of the neighborhood, of which the chapel is built, and the raised sculpture of the coat-of-arms is much weather-worn. The face of the stone where the inscription is registered was also much worn away; but Mr. Evans, in order to preserve the record, recently had the letters deepened. In doing this he took every precaution to preserve the form and shape of each letter precisely as it was originally cut. The legend is now quite legible. It has already been quoted in our Transactions, from Ormerod's Cheshire; but I give the follow ing reproduction of it as it appears on the porch gable: —

Thomas Moulsone
of ye citty of London
Alderman built this
chappell vpon his
owne cost & charge
Añ: Dm̃: 1627

The chapel is in perfect repair, and the interior is quite pretty. This is in a great measure due to the liberality of the present Duke of Westminster and his father. The school, which was originally carried on in the western end of the building, now occupies a separate structure just west of the chapel.

Mr. Evans kindly placed at my command such notes as he had gathered containing information relative to the founder of the chapel. Among these was a complete copy of so much of the Report of the Commissioners of Charity as relates to this foundation.[1] This report gives in detail the material used by Ormerod in his account of the chapel and school. There was also certain information, credited by a correspondent of Mr. Evans to Mr. Charles Welch, of the Guildhall Library, London. The new matter in this was to the following effect: Sir Thomas —

"was an inhabitant of the Parish of St. Christopher le Stocks . . . from 1608 till his death in 1638. Here he had a mansion with very extensive

[1] Report of the Commissioners appointed in pursuance of an Act of Parliament made and passed in the 5th and 6th years of King William the 4th, c. 71. Intituled, &c., &c., &c. London, 1837.

grounds, abutting I think on Princess St. . . . [He] was in 1632 Governor of the Company of Merchant Adventurers."

At the Guildhall Library in London, I pursued the investigation still further, and, through the courteous assistance which I there received, I was able to establish one or two additional points of interest in Sir Thomas's career. In Orridge's Citizens of London[1] there is a tabulated list of the Lord Mayors, showing the date of the mayoralty of each incumbent, and giving the Company to which he belonged. Under date of 1633, in the column headed "Mayors," appear two names, Sir Ralph Freeman and Sir Thomas Mowlson; while under the column headed "Company," the word "Clothworker" is recorded. This entry has caused it to be stated that Sir Thomas was a member of the Clothworkers' Company. One of the first things that I had determined in my own mind concerning him, in previous investigations, was that he was a member of the Grocers' Company. If this conclusion was correct, it was impossible that he should simultaneously have been a member of the Clothworkers' Company; and the entry in the table, in that event, would have been descriptive only of Sir Ralph Freeman. An examination of an Account of the Grocers' Company, printed for the Company in 1689,[2] revealed the fact that Sir Thomas was enrolled among their benefactors. He contributed £200 towards a fund "to be lent to young members of the Company, on small or no interest at the discretion of the Wardens and Assistants."

On the other hand, Heath's account of the Company,[3] published in 1854, contains a list of the Lord Mayors who have been members of the Grocers' Company, in which the name of Sir Thomas does not occur.

In the Papers of the House of Commons,[4] the name of Sir

[1] Some Account of the Citizens of London and their Rulers from 1060 to 1867, by B. B. Orridge. . . . London, 1867. p. 234.

[2] A short Account of the Company of Grocers, from their Original together with their case and condition (in their present circumstances) truly stated. . . . London, 1689.

[3] Some Account of the Worshipful Company of Grocers of the City of London, by John Benjamin Heath, Esq., F.R. and A.S. Second edition. London, 1854.

[4] Papers of the House of Commons, 1878, Vol. 62. The titlepage of this volume is somewhat obscure, but I give it verbatim: Accounts and Papers.

Thomas appears among those returned to serve in Parliament, 1627–1628. He is there described as an alderman and as a representative of London City. The date of his return is given 19 February, 1627–8.

The Register of the Parish of St. Christopher le Stocks[1] has been printed. I quote the entry which concerns us in this connection. Punctuation will not help us to determine which of the two dates applies to the event which is entered between them; but we are left in the settlement of this question to other sources of information: —

"15th August 1638 was buried Sr Thomas Moulson: Grocer: Once Lord Maior of the Cittey of London 10th January 1638."

The Guildhall Library is the owner of some manuscript notes collected by J. J. Stocken. Among these notes are the following:

"Moulson, Thomas, Kt. Grocer. Sheriff, 1623; Alderman of Broad St.; Mayor, 1633, pt.; Son of Thomas Moulson of Hargrave, Co. Cheshire; Lived in Threadneedle Street, where in 1617, was born his nephew, Sir Edward Turnoor, Speaker of the House of Commons; Died, 6. Dec. 1638."

The statement made by Mr. Welch that Sir Thomas was at one time Governor of the Company of Merchant Adventurers rests upon the fact that Howel, in 1632, thus addressed him in one of his familiar letters.[2]

These fragmentary references add materially to our knowledge

Thirty-nine volumes — (17, Part I.) — Members of Parliament. Part I. Session 17 January–16 August, 1878. LXII. Part I. p. 476.

[1] The Register Book of St. Christopher le Stocks, in the City of London. Edited by Edwin Treshfield. . . . London, 1882. p. 42.

[2] Westmin. 1 June, 1632. To Mr. Alderman Moulson, Governor of the Merchant Adventurers. Epistolæ Ho — Elianæ. Familiar Letters Domestic & Forren. . . . By James Howel, Esq; One of the Clerks of his late Maties most Honb^le Privy Councell. The Fifth Edition. London, 1678. p. 216.

I am indebted to Mr. Edward M. Borrajo, of the Guildhall Library, for this reference to the authority which was the basis of Mr. Welch's assertion relative to Sir Thomas's position in this Company. For this and for the courtesy which led him to submit the Stocken papers to my inspection, and for the great courtesy of my treatment at the Library, I desire to make my acknowledgments.

of the career of Sir Thomas Mowlson. We already knew that he was in public service during the greater part of his life; but for the first time we learn that he was a Member of Parliament, and that he was honored by the distinguished position of Governor of the great Company of Merchant Adventurers. His reputation as a generous giver has already been so well established that the discovery of his name among the benefactors of the Company to which he belonged might confidently have been predicted. Here, as elsewhere, he stands true to the ideal which we must necessarily have conceived of him.

It may be said that it does not follow, because he gave to the Grocers' Company, that he was therefore a member of that Company. The constant references to him as a grocer, with which we meet, leave little room for doubt upon that point. The omission of the name of his Company in the table prepared by Orridge, to which I have already alluded, was a very natural error on the part of Orridge, and counts for but little. It was of precisely the same class as the omission of his name by Heath from the list of grocers who had been Lord Mayors. In each case it arose from the fact that Sir Thomas's service was for an unexpired term for which another had originally been elected.

Mr. Stocken gives the date of his death as 6 December, 1638. The interment entry at St. Christopher le Stocks, if the month is correct, must have been old style, and should have been January 10, 1638–9, as given by Dr. Marshall.[1] The establishment by Lady Mowlson of a scholarship at Harvard College is the only cause for our taking any special interest in the career of Sir Thomas. The investigations which I have here recorded add nothing directly to our knowledge of her life; yet I feel that there is some gain in the accumulation of facts which enable us to estimate more truly the position in London society which this generous lady must have held.

Mr. HENRY H. EDES communicated a Bibliography of the Historical Publications of the New England States. It was prepared by Mr. Appleton P. C. Griffin, formerly of the Boston Public Library, who offered it for the Society's accept-

[1] *Ante*, i. 353.

ance. The thanks of the Society were given to Mr. Griffin for this valuable paper, and it was referred to the Committee of Publication.

BIBLIOGRAPHY OF THE HISTORICAL PUBLICATIONS OF THE NEW-ENGLAND STATES.

THE purpose of this paper is to give a Bibliographical Account of the collections of printed Archives of the several New England States, with descriptive analyses of their contents.

As introductory to the Bibliography proper, it has seemed to me fit to enumerate briefly the more recent additions to the printed documentary literature upon American history. It has been no part of my plan to include in the Bibliography the reprints of the Bodies of Laws, such as Whitmore's editions of the Laws of 1660 and 1672, or that monumental work of minute historical research, Mr. Goodell's edition of the Province Laws.

I have not attempted any account of Colonial Legislation, except that I have put down some few facts necessary to a bibliographical description of the printed records.

The progress of historical research and the more widely recognized necessity of recourse to original sources for the correct understanding of historical questions have brought about an increased activity in the printing of documentary material.

Within a comparatively short period the literature of the English beginnings of American history has received the following accessions: the Calendars of State Papers published by the Public Record Office, the Reports of the Historical Manuscripts Commission, Stevens's "Fac-similes of Historical Manuscripts," and Brown's "Genesis of the United States."

From France we have had Doniol's "Histoire de la participation de la France à l'établissement des États-Unis d'Amérique," in five large quarto volumes.

For Spanish America the series of forty odd volumes of reprints of papers, narratives, etc., from the archives of Spain, entitled "Colección de documentos inéditos relativos al descubrimiento, conquista y colonizacion de las posesiones Españolas en América;" the "Cartas de Indias," and Icazbalceta's "Nueva Colección de documentos para la historia de México."

The great body of Columbus documents brought out by the celebration of the four hundredth anniversary of the discovery of America would require a special paper for even a superficial description of its contents. As a representative production of Columbus centenary literature there may be cited the Collection in fourteen folio volumes, entitled, "Raccolta di Documenti e Studi pubblicati dalla R. Commissione Colombiana pel Quarto Centenario dalla Scoperta dell' America."

Before noticing the collections brought out in this country, I will speak of the issues of the Canadian press as touching the documentary history of the United States. In 1883 the Government of Canada instituted a Department of Archives, in which have been gathered copies of papers preserved in the depositaries of Europe, as well as original documents belonging to Canada. Mr. Douglas Brymner, the archivist, has calendared the collection, and his successive annual reports from 1883 to 1894 have contained the results of his labors. The Haldimand Papers, the correspondence of Gage, Lord Amherst, Bouquet, and others, have especial value for our early history.

In Canada there have also appeared a series of French papers under the editorship of the Abbé Casgrain, comprising reprints of the De Lévis Papers, including the correspondence of Governors Duquesne and Vaudreuil, 1755–1760, the Journal and Letters of Montcalm, etc.; and the Government has issued a work in four large quarto volumes, entitled, "Collection de manuscrits contenant lettres, mémoires, et autres documents historiques relatifs à la Nouvelle-France."

Of the thirteen original States of the United States, all but Delaware, Georgia, and South Carolina have published some portion of their archives. It devolved upon the Historical Society of Delaware to publish all that has appeared in print of the archives of that State, the "Minutes of the Council of the Delaware State from 1776 to 1792," forming one of the volumes of the publications of the Society. The documents relating to the early settlements on the Delaware are necessarily brought into the Pennsylvania and New York publications.

As the publications of the New England States are to receive distinct treatment further on, I will now briefly record the work of the other States in printing their Records.

The State of New York has published a series of fifteen volumes, entitled "Documents Relative to the Colonial History of the State of New-York;" "Calendars of New York Historical Manuscripts," in four volumes; and O'Callaghan's "Documentary History of the State of New-York," in four volumes, of which there are octavo and quarto editions published in 1849 and 1850, respectively, the quarto issue having been subjected to revision and extension.

The records of Pennsylvania have been exhaustively issued for public use, and the series of archives has been most admirably grouped for consultation. The first collection of papers printed was published under the editorship of Samuel Hazard, with the title "Colonial Records of Pennsylvania" in twelve octavo volumes. The second collection has the title of "Pennsylvania Archives," and comprises twelve volumes in a first series and nineteen in a second. In the latter the papers are carefully classified, and single volumes are given up to the "Whiskey Insurrection," "Colonies on the Delaware," the "French Occupation of Pennsylvania," "Marriage Records of Colonial Churches," the "Boundary Dispute between Pennsylvania and Maryland," the "Connecticut Settlement of Western Pennsylvania;" and several volumes are devoted to the Revolutionary Rolls, with numerous Journals and Diaries of Revolutionary officers.

Under the editorship, first of William A. Whitehead, and later of William Nelson of the New Jersey Historical Society, the State of New Jersey has published eighteen volumes of "Documents relating to the Colonial History of the State of New Jersey." The eleventh and twelfth volumes, which have lately appeared (published out of their numerical order), are devoted to historical items from early Colonial Newspapers, with some account of the American Colonial press.

The Maryland Historical Society has had the supervision of the production of the "Archives of Maryland," and under the skilful editorship of William Hand Browne, there have been published thirteen large quarto volumes, including Proceedings and Acts of the General Assembly, Journals of the Council, Correspondence of Governor Sharpe, Judicial and Testamentary Business of the Provincial Court, Journal of the Council of Safety.

The State of North Carolina has caused to be gathered in the office of the Secretary of State a full collection of documents mainly

drawn from the Archives of Great Britain; and these papers have been presented in ten large quarto volumes in handsome typography, but with insufficient editing. Embracing as these papers do everything possible to be found regarding the Province of Carolina, they in good measure make up for the inaccessibility of the Records of South Carolina.

In New England, Connecticut was the first State to put forth a volume of its Records in printed form. The first volume, published in 1850, contains the Documents relating to the Colony prior to the Union with New Haven, and includes the Charter, Records of the General and Particular Courts, Record of Wills and Inventories, the Southampton Combination, and Claims to the Pequot Country. The Journals of the General Assembly down to and including part of the year 1776, with the Journals of the Governor and Council, form the body of the Papers printed in the fifteen volumes issued by Connecticut under the title of "The Public Records of the Colony of Connecticut." Two volumes of the Public Records of the State of Connecticut have lately been published, and are more fully described in the bibliography proper.

The New Haven Colony Records were published in 1857 and 1858 under the editorship of Charles J. Hoadly, the first volume being the "Records of the Colony and Plantation of New Haven, from 1638 to 1649;" and the second, "Records of the Colony or Jurisdiction of New Haven from May, 1653, to the Union."

The first volume of Rhode Island Records was published in 1856, and comprised records of the settlements at Providence, Portsmouth, Newport, and Warwick, and of the Colony of Rhode Island and Providence Plantations under the first Charter. The publication of the Records of this State was completed in 1865 with the issue of the tenth volume. The Proceedings of the General Assembly and the Proceedings of the Governor and Council were the chief documents printed, but certain accessory papers were also included.

The New Hampshire authorities have shown a most commendable public spirit in collecting and printing the Records of that State. The first volume of the printed series was issued in 1867 under the editorship of Nathaniel Bouton, D. D., with the title of "Provincial Papers. Documents, and Records relating to the Province of New Hampshire, from the earliest Period of its Settle-

ment." This volume was also issued by the New Hampshire Historical Society as a part of its Collections. The complete set of the printed Records now numbers twenty-four volumes, the first seven bearing the title of Provincial Papers. Vol. 8, is entitled State Papers; Vol. 9, Town Papers; Vol. 10, Provincial and State Papers; Vols. 11–13, Town Papers; Vols. 14–17, Rolls and Documents relating to Soldiers in the Revolutionary War; Vol. 18, Miscellaneous Provincial and State Papers; Vol. 19, Provincial Papers; Vols. 20–22, Early State Papers; and Vols. 23, 24, State of New Hampshire.

From the fact of having no existence as a State until recent times, Maine necessarily has no legislative Documents for the Colonial period. The four volumes of "Documentary History of the State of Maine," published by the Maine Historical Society with the assistance of the State, are concerned with the geographical history and the early settlements. Dr. J. G. Kohl's "History of the Discovery of Maine" constitutes the first volume of the Series; Hakluyt's "Discourse on Western Planting," the second; the "Trelawny Papers," the third; and the "Baxter Papers," the fourth. A volume of "Maine Wills," 1640–1760, and the "York Deeds" in ten volumes, are semi-official publications.

The singular history of the origin and formation of the State of Vermont gives its Records some special characteristics. The eight volumes of "The Records of the Governor and Council," published by the State from 1873 to 1880 are largely taken up with Documents upon the Controversy of the New Hampshire Grants. They include reports of proceedings of Conventions held at various towns for the purposes of defence against the claims of New York, or to form plans of union, with reprints of controversial pamphlets on the respective claims of the New York and New Hampshire settlers.

The printed Records of our own State, as it is well known, are the five volumes edited by Dr. Shurtleff. The Colony Records which Dr. Shurtleff used consist of five folio manuscripts. The first volume begins with the Records of the Company and of the Court of Assistants in England, prior to the transfer of the government to New England, the last entry giving a meeting of the Court of Assistants on the Arbella, 23 March, 1629–30; followed by the Records of the same Bodies in America, beginning with a Court of

Assistants at Charlestown, 23 August, 1630, and ending with the minutes of the General Court held 10 December, 1641.

The first volume of Shurtleff's edition also includes a copy of the Colony Charter, printed from the original manuscript, a letter of Governor Cradock in London to Endicott, and letters from the Governor and Company in England to the Governor and Council in America. Shurtleff's second volume is a transcript of the second volume of the manuscripts giving the Records of the General Court or Colony, as kept by the Secretary of the Commonwealth, from 1642 to 1649.

It will be observed that with the minutes of the Court of Assistants in the first volume of the printed work the Records of that Court cease.

In the first volume of the original manuscript the Records of the Court of Assistants are interspersed in chronological order among the Records of the General Court. The cessation of this method of keeping the Records is perhaps explained by the fact that the Records of both bodies were no longer kept by the same officer. The introduction of a new hand in the duty of keeping the Records probably caused a departure from the method pursued in the first volume, and explains the failure of a continuance of the Court of Assistants' Records. The Records of the Court of Assistants for the years 1641–1673 are not known to exist, but that such were kept seems certain.

The contemporaneous copy of the Court Records acquired in 1890 by the Public Library of the City of Boston, was found to contain the records of the Court of Assistants, beginning 28 October, 1641, and ending with 5 March, 1643; and they were printed by Mr. William H. Whitmore in his "Bibliographical Sketch of the Laws of the Massachusetts Colony from 1630 to 1686."

The Clerk of the Supreme Judicial Court for the County of Suffolk has in his custody a volume marked, "Court of Assistants, Second Booke of Records, beganne the third of March, 1673." This inscription implies the existence of a First Book of Records, and that one existed is borne out by citations in the Court Files. The composition of this "First Booke of Records" is a matter for conjecture. It may have covered the entire period from 1641, when the first volume of Records stops, down to 1673, with which date the "Second Booke of Records" begins, or it may have

covered a shorter period. Mr. William P. Upham, who is assisting Mr. Noble[1] in preparing the Second Book for the press, is of the opinion that the Barlow excerpt is a copy from records kept by Increase Nowell, who was Secretary of the Colony or Commonwealth down to 1650, and was also Secretary of the Assistants from 1641 to that time. The Barlow excerpt affords internal evidence of being a copy from Nowell's notes. Rawson, who succeeded Nowell as Secretary of the General Court or Colony in 1650, from the requirements of the position must have taken up Nowell's work for the Court of Assistants at the same time.

The First Book of Records, therefore, may have begun with Nowell's time, or possibly only with Rawson's assumption of the Secretaryship in 1650. The former seems the more probable theory; so that the First Book, if it could be found, would fill the gap now existing in the Records of the Court of Assistants for the period from 1641 to 1673.

The third volume of Shurtleff's work is a transcript of the Records of the General Court kept by the Clerk of the House of Deputies from 1644 to 1657. It will be remembered that from 1634, when the system of representation by Deputies was introduced at the Court of Elections, down to 1643, the Assistants and Deputies sat as one body. In 1644 the Houses were divided; the Governor and Magistrates sat in one room, and the Deputies in another.

Prior to the assembling of the Deputies as a separate body, 29 May, 1644, the Secretary, "amongst the magistrates (who is the generall officer of the Commonwealth) for the keeping of the publicke records of the same," appears to have been the only recording officer. The Records of the Deputies at their first Meeting were kept by one of their number, presumably Captain Bridges. This last information is due to Mr. William P. Upham, who has arrived at this conclusion after a study of the handwriting in which the Records of the first meeting appear. At the Court of Elections, begun on 14 May, 1645, Edward Rawson was elected Clerk of the Deputies "to enter all votes past in both houses & also those y^t passe only by them."

In 1648 it was deemed necessary to prescribe a definite method

[1] See Mr. Noble's paper read at the February, 1895, meeting, *ante*, pp. 51-65, and especially pp. 55 and 56.

of keeping the Records. At that time the "secretary amongst the magistrates, (who is the genrall officer of the comon wealth, for the keeping the publike records of the same,)" and the Clerk of the Deputies were given two books each, "bound up with velum & pastboard, . . . one to be a iournall to each of them, the other for the faire entry of all lawes, acts, & orders, &c, that shall passe the magistrates & deputies, that of the secretaries to be the publike record of the country, that of the clarkes to be a booke onely of coppies."[1]

The Secretary and Clerk were further directed "to enter into theire journalls respectiuely the titles of all bills, lawes, petitions, &c., that shalbe psented & read amongst them, what are referd to committees & what are voted negatiuely or affirmatively, & so for any additions or alterations." From this it appears that the Secretary and Clerk were each required to keep two books; viz., a journal of their respective Houses, and a record of the concurrent proceedings of both Houses, or the General Court. The Secretary's record to be the "publike record of the country," i. e. the Colony or Commonwealth; and that kept by the Clerk of the Deputies, to be "a booke onely of coppies."

For the formation of his "publike record," the Secretary was required at the end of each session of the General Court to enter in his Book of Records the "bills, lawes, petitions, &c.," that were given to him by the whole Court "meete together," or by a Committee of the Magistrates and Deputies appointed for this purpose, as appeared "to haue passed the Magistrates & Deputies."

The Clerk of the Deputies who was given "libertie for one moneth after to transcribe the same into his booke of coppies," seems to have availed himself of this liberty; for from this time (1648) the two Records (the Secretary's and the Clerk's, as printed in Shurtleff's second and third volumes) agree much more closely, both in arrangement and verbal rendering, than hitherto.

From the above it would seem that the third volume in the Shurtleff edition is not an authoritative (or "publike record of the country"), but, from 1648, is a "booke onely of coppies," kept by the Clerk of the Deputies for the information and convenience of the lower House.

The Journals ordered by the Act of 1648 in the following terms:

[1] Massachusetts Colony Records, ii. 259.

"That the secritary & clarke for the Deputies shall briefly enter into theire journalls respectiuely the titles of all bills, orders, lawes, petitions, &c., that shalbe ꝑsented & read amongst them, what are referd to committees, & what are voted negatively or affirmatively," are not known to be extant. Mr. William P. Upham says that a few leaves now among the files of the Supreme Judicial Court may be fragments of one of these Journals.

From what has been presented above, it appears that from the time of the separation of the two Houses in 1644 down to 1657, when the Records kept by the Clerk of the Deputies cease, two contemporaneous records of the General Court or the Commonwealth are preserved and printed by Shurtleff, — one being that kept by the Secretary "amongst the Magistrates (who is the generall officer of the Commonwealth)," constituting the "publicke record of the country," making the continuous Record found in Shurtleff's second and fourth volumes; the other being the record kept by the Clerk of the House of Deputies, described as a "booke only of coppies," but which included minutes of business introduced into the House, that either did not receive or require approval by the Magistrates, and therefore not entered in the "publicke record of the country." This accounts for what is Shurtleff's third volume, running parallel with the second and part of the fourth volume, and each containing substantially the same matter, with different arrangement and verbal rendering, and the occasional entry of an item in one Record not found in the other.

The fourth and fifth volumes of the Shurtleff collection contain the continuous Records of the General Court from 1650 to the May session of 1686, when the Colony came under the sway of a Royal Commission, with Joseph Dudley as President.

The unfortunate plan adopted by Dr. Shurtleff to remedy certain deficiencies in the text of the first issue of Vols. I. and II. of the Records, is fully set forth by Mr. Whitmore in his "Bibliographical Sketch of the Laws of the Massachusetts Colony." It appears that soon after the publication of the first edition the contemporaneous copy of the Records, now preserved in the Public Library, came to Dr. Shurtleff's hands, and from that he was able to supply certain gaps in the original Records. A new issue of the Shurtleff edition was authorized about this time; and to introduce the newly-discovered material, Dr. Shurtleff caused the stereotyped plates of

Vols. I. and II. to be changed, but without giving any notice on the titlepages that any alterations had been made.

The Records of the Plymouth Colony were also intrusted to the editorship of Dr. Shurtleff. It may be here observed that the printed titlepages do not correctly represent the editorial work performed by Mr. Pulsifer, who superseded Dr. Shurtleff in the editorship. The titlepages were printed in advance of the printing of the volumes, so that Dr. Shurtleff's name appears as an editor upon volumes with which he had nothing to do.

The Bibliography which is now presented will afford a description of the make-up and order of appearance of the printed collections of the several New England States.

CONNECTICUT.

CONNECTICUT COLONY.

The Public Records of the Colony of Connecticut,

Prior to the Union with New Haven Colony, May, 1665; transcribed and published (in accordance with a resolution of the General Assembly) under the Supervision of the Secretary of State, with occasional Notes, and an Appendix. By J. HAMMOND TRUMBULL.

[Vol. I.] Hartford, 1850. vii, (1), 604, (1) pp. 7 plates of fac-similes. 8vo.

Contents. Records of the General and Particular courts, from April, 1636, to December, 1649; Records of the General Court, from February, 1650, to May, 1665; Record of Wills and Inventories, 1640 to 1649; Code of Laws established by the General Court, May, 1650. *Appendix:* Letter from Sir William Boswell, relating to the encroachments of the Dutch, 1641–2; A coppie of ye combination of Southampton wth Hartford; The agreement [of Connecticut] with Fenwick [relative to jurisdiction of the river Towns]; Claims of Massachusetts to the Pequot country; Letter from Connecticut to Easthampton [relative to witchcraft case of Jos. Garlick and wife]; The settlement with Capt. John Cullick; Abstract of the Will of George Fenwick; Letter to the Commissioners of the United Colonies, complaining of affronts received from the Narragansetts, 1660; Letters respecting Governor Hopkins's Legacy; The Charter of 1662; Petition of Mrs. Cullick to the General Court, in May, 1663; List of Documents relating to the Union with New Haven.

NOTE. — "Fac-similes of the autographs of members of the first Court of Election under the Constitution of 1639, and of Magistrates chosen at the Union of the Colonies, in 1665, have been prepared with all possible care and accuracy, from originals. . . . Fac-similes of portions of the original records, in the hand writing of each of the secretaries who held office prior to the Union, have also been introduced."

[Vol. II.] From 1665 to 1678; with the Journal of the Council of War, 1675 to 1678. Hartford, 1852. iv, 610 pp.

Contents. The Charter of Connecticut; Records of the General Court from May, 1665, to October, 1669; May, 1670, to October, 1677; Journal and Correspondence of the Council, 1675–1677. *Appendix:* Reports of the Committee appointed to hear Uncas's complaints, 1665; Tawtanimo's grants to Richard Baldwin, 1659–60; Letters from Charles II., to Connecticut, 1666; Correspondence with Massachusetts, respecting a Synod, 1667; List of Freemen in the several towns, October, 1669: Hartford; Windsor; Wethersfield; Farmington; Fairfield; Stratford; Norwalk; Saybrook; New London; Stonington; Norwich; New Haven; Milford; Branford; Guilford; Killingworth; Stamford; Haddam; Abstracts [etc.] of Documents relating to Rhode Island boundary, 1665–1677; The mortgaged Lands: Major Atherton and his partners, 1659–1683; Lands granted by Massachusetts, in the Pequot country, 1670; The rumored Indian Plot of 1669; Proceedings of the Commissioners to establish the Rhode Island boundary, June, 1670; Correspondence with Massachusetts respecting the Boundary line, 1671–1673; New London and Lyme Riot, 1670; Letter from the King announcing the Declaration of War with the States General, 1672; Hostilities with the Dutch, 1673–4; The Laws of 1672–3 (titlepage and preface, with description of the volume printed in 1673); Claims of Gov. Andross, 1674–5; Laws for the Pequots, 1675; Stonington petition, 1675; Gov. Andross at Saybrook, 1675; The King's letter respecting William Harris and his claim to Pawtuxet lands, 1675; Report of a Committee about Narragansett Lands, June, 1677; Letters from Rev. James Fitch, respecting Uncas and the Surrenderers, 1678.

[Vol. III.] From May, 1678 to June, 1689; with Notes and an Appendix comprising such Documents from the State Archives, and other Sources, as illustrate the History of the Colony during the Administration of Sir Edmund Andros. Hartford, 1859. xiii, (1), 538 pp.

Contents. Proceedings of the General Court, from May, 1678, to October, 1687; Interruption of Charter Government, by Sir Edmund Andros; Records of the May court, 1689; June court, 1689. Appendix.

Note. — The Appendix comprises one hundred and forty-two items arranged chronologically from 1678 to 1689. The chief documents there printed are Heads of inquiry to bee sent to the Governor of Conecticutt, with answers thereto, 1680; Articles of misdemeanor against Connecticut, by Edward Randolph, 1685, with Order in Council; Extracts from "Will and Doom, or the Miseries of Connecticut," by Gershom Bulkeley; Laws enacted by Governor Andros and his Council, 1687; Extracts from the Records of the Commissioners of the United Colonies.

[Vol. IV.] From August, 1689, to May, 1706; transcribed and edited by Charles J. Hoadly. Hartford, 1868. vi, 574 pp.

Note. — "The following pages contain the records [of the General Court] from August, 1689, to the close of the May session, 1706, being the remainder from page 204

of the third manuscript volume of Records of the Colony of Connecticut. . . . The Council Journal from May 30th, 1696, to May, 1698, . . . has been included in this volume. . . . Other matters of interest in this volume are the papers relative to the visit of Col. Fletcher to Hartford, in October, 1693, for the purpose of presenting his claims to the command of the Connecticut Militia. . . . The incorporation and settlement of quite a number of new towns, and the division of some towns into villages and distinct ecclesiastical societies, which at a later day became towns, may also be specified." *Preface.* On page 76 is a note relative to a trial for witchcraft in 1692. This was the last trial in Connecticut for the imaginary crime.

[Vol. V.] From October, 1706, to October, 1716, with the Council Journal from October, 1710, to February, 1717. Hartford, 1870. v, (1), 612 pp.

NOTE. — "The present publication contains the whole of Volume IV. of the manuscript Records of the Colony of Connecticut, and the first sixty-five pages of Volume V. It contains also, inserted in chronological order between sessions of the General Assembly, the Records of the Governor and Council from October 30th, 1710, to February 19th, 1716–17." Includes measures adopted for raising troops for the Expedition against Canada, Boundary transactions, acts regarding the Currency, Bills of Credit, etc.

[Vol. VI.] From May, 1717, to October, 1725, with the Council Journal from May, 1717, to April, 1726. Hartford, 1872. iv, 602 pp.

NOTE. — "This volume . . . continues the publication of the fifth volume of the manuscript Records of the Colony of Connecticut, from page 66 to 514, inclusive, embracing the period between May, 1717, and the close of the October session of the General Assembly in 1725. It contains also the record of the acts of the Governor and Council from May, 1717, to April, 1726. *Preface.*

[Vol. VII.] From May, 1726, to May, 1735, inclusive. Hartford, 1873. iv, 610 pp. Fac-simile of "Three shillings bill" issued by New London Societies united for trade and commerce, 1732.

NOTE. — This volume contains the remainder of Volume V. of the manuscript *Records of the Colony of Connecticut*, from page 515, covering period from May, 1726, to the end of May session, 1730; the first 223 pages of Volume VI., continuing the records to the end of May session, 1735; and the Journal of the Governor and Council from May, 1726, to February, 1727–8. The *Appendix* contains Order of the King in Council, upon the appeal of John Winthrop against Thomas Lechmere, annulling the law of Connecticut entitled "An Act for the settlement of Intestate Estates." Queries relating to the Colony of Connecticut, from the Board of Trade and Plantations, with the answers thereto, 1729–1730.

[Vol. VIII.] From October, 1735, to October, 1743, inclusive. Hartford, 1874. (4), 604 pp.

NOTE. — "This publication contains from page 224 of Volume VI. of the manuscript *Records of the Colony of Connecticut.* . . . The Journal of the Governor and Council for the years embraced in this volume is not known to be extant." *Prefatory Note.*

[Vol. IX.] May, 1744, to November, 1750, inclusive. Hartford, 1876. (4), 621 pp.

NOTE. — "This volume contains the remainder of Volume VII. of the manuscript *Records of the Colony of Connecticut* from page 222, together with the first fifty-one pages of Volume VIII., and covers the period from May, 1744, to the death of Governor Law and the election of Governor Wolcott, in November, 1750." The *Appendix* contains "Proceedings of the Privy Council on the appeals of Samuel Clark against Thomas Tousey and others, touching the Law of Intestate Estates, 1737–45; Queries from the Board of Trade to the Governor and Company of Connecticut, with answers thereto, 1784–9."

[Vol. X.] May, 1751, to February, 1757, inclusive. Hartford, 1877. (4), 652 pp.

NOTE. — "The following pages complete the publication of the eighth manuscript volume of the *Records of the Colony of Connecticut*, and contain the acts of twenty-one sessions of the General Assembly." The Journals of the Governor and Council, Committees of War, and of the General Assembly are wanting for 1751–1757. The *Appendix* contains the Census of 1756; Queries from the Board of Trade to the Governor and Company of Connecticut, with the answers thereto, 1755–6.

[Vol. XI.] May, 1757, to March, 1762, inclusive. Hartford, 1880. (4), 662 pp.

NOTE. — This and the preceding volume contain acts illustrating the participation of Connecticut in raising troops for the French and Indian Wars, giving appointments of officers, appropriations, etc. The Journals of the Governor and Council, Committees of War, and of the General Assembly are wanting. The *Appendix* contains Answers to queries from the Board of Trade, 1761–2.

[Vol. XII.] May, 1762, to October, 1767, inclusive. Hartford, 1881. (4), 698 pp.

NOTE. — The Journals of the Governor and Council, and of the General Assembly, are wanting. The Proceedings relative to the Stamp Act are recorded in this volume. The *Appendix* consists of a reprint of the Tract entitled Reasons why the British Colonies, in America, should not be charged with Internal Taxes, by Authority of Parliament; Humbly offered, for Consideration, In Behalf of the Colony of Connecticut. New Haven: Printed by B. Mecom, M,DCC,LXIV.

[Vol. XIII.] May, 1768, to May, 1772, inclusive. Hartford, 1885. (4), 689 pp. Folded plate: Chart of Saybrook Bar, by Abner Parker, 1771.

NOTE. — "This book contains the concluding part of Volume X. of the manuscript Public Records of the Colony of Connecticut, from page 312, and the first 147 pages of Volume XI. The Council Journal before May, 1770, is not known to be extant." The portion from May, 1770, to 1772, is here printed. The Journals of the General Assembly are wanting.

[Vol. XIV.] October, 1772, to April, 1775, inclusive. Hartford, 1887. 4, 534 pp.

NOTE. — "The record of eight sessions of the General Assembly is in this book." The Journals of the General Assembly are wanting for this period. The Journal of the Gov[illegible]or and Council fails after October, 1773.

The *Appendix* contains reprints of the following tracts: —

The Susquehannah Case [1774]; Report of the Commissioners appointed by the General Assembly of this Colony, to treat with the Proprietaries of Pennsylvania, Respecting the Boundaries of this Colony and that Province. Norwich: Printed by Green & Spooner, 1774; An Account of the Number of inhabitants in the Colony of Connecticut, January 1, 1774; together with an Account of the Number of Inhabitants, taken January 1, 1756. Hartford: Printed by Ebenezer Watson, M,DCC,LXXIV.; Heads of Inquiry relative to the Present State and Condition of His Majesty's Colony of Connecticut, Signified by His Majesty's Secretary of State, in his Letter of the 5th July, 1773; With the Answers thereto. NewLondon: Printed by T. Green, M,DCC,LXXV.

[Vol. XV.] May, 1775, to June, 1776, inclusive, with the Journal of the Council of Safety from June 7, 1775, to October 2, 1776, and an Appendix containing some Council Proceedings 1663–1710. Hartford, 1890. iv, 617 pp.

NOTE. — The appointments of Revolutionary officers are recorded in this volume, with the measures adopted for raising troops, and other acts in connection with the Revolutionary officers.

STATE OF CONNECTICUT.

The Public Records of the State of Connecticut,

[Vol. I.] From October, 1776, to February, 1778, inclusive, with the Journal of the Council of Safety from October 11, 1776, to May 6, 1778, inclusive, and an Appendix. Published in accordance with a Resolution of the General Assembly, by CHARLES J. HOADLY, LL.D. Hartford, 1894. iv, 653 pp.

NOTE. — *Contains* "about one half of the first manuscript volume of the *Records of the State* of Connecticut, and all of the first volume of the Journal of the Council of Safety which was not printed in the fifteenth volume of *Colonial Records of* Connecticut." *Preface.*

The *Appendix* comprises Journal of the Convention held at Providence, December 25, 1776, to January 3, 1777, of delegates from New England States to form a union for purposes of military defence, to regulate and improve the currency, to establish a scale of prices for commodities to prevent the exaction of exorbitant charges for necessities to Soldiers; Journal of Springfield Convention, July, 1777, of "Committees from the States of New Hampshire, Massachusetts Bay, Connecticut, Rhode Island, and New York, for the purpose of holding a conference respecting the state of the paper currency of the said governments," etc.; "Journal of the Commissioners of New Hampshire, Rhode Island and Providence plantations, and Connecticut at New Haven, on the 15th of January and continued by adjournment until the 20th day of the same month, 1778, when being joyned by the Commissioners of Massachusetts Bay, New York, and New Jersey" they proceeded to consider measures for regulating the price of labor, manufactures, internal produce, and commodities imported from foreign parts, also to regulate the charges of innholders.

[Vol. II.] From May, 1778, to April, 1780, inclusive, with the Journal of the Council of Safety from May 18, 1778, to April 23, 1780, and an Appendix. Hartford, 1895. iv, 607 pp. 8vo.

NOTE. — "Comprises the record of eight sessions of the General Assembly of Connecticut between May, 1778, and May, 1780, and contains the remaining hitherto unprinted portion of Volume one of the manuscript *Records of the State of Connecticut*, with the April Session of 1780 from Volume two. The records of the Council of Safety are also included, arranged in the same manner as in the former printed volume. The record of the ordinary Council is not known to exist. From May, 1779, the Journals of the Lower House of the Assembly are in our archives. The Journals of the Upper House are not preserved." *Preface.*

The *Appendix* contains Depositions in regard to the Invasion of New Haven, Fairfield, and Norwalk, in July, 1779; Proceedings of the Hartford Convention of October, 1779, of "Commissioners of the several States of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, and New York" to regulate the currency and the prices of commodities, etc.; Proceedings of the Philadelphia Convention, January, 1780, of "Commissioners from the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, Pennsylvania, Delaware, and Maryland, appointed for the purpose of considering the expediency of limiting prices."

NEW HAVEN COLONY.

Records of the Colony and Plantation of New Haven, from 1638 to 1649. Transcribed and edited in accordance with a Resolution of the General Assembly of Connecticut, with occasional Notes and an Appendix by CHARLES J. HOADLY.

[Vol. I.] Hartford, 1857. vii, (1), 547 pp. 8vo.

Contents. Indian deeds of the Plantation of New Haven; The names of all the Freemen of the Courte of Newhaven; New Haven Colony Records. *Appendix:* Correspondence of Governor Eaton and of Deputy Governor Goodyeare with Governor Stuyvesant and (one letter) Governor Winthrop concerning Dutch claims to New Haven and Connecticut.

NOTE. — "At their first settlement, though within the limits of the old Connecticut Patent, the plantations of New Haven, Guilford, and Milford, intended to be, if possible, separate and distinct governments, but finding themselves singly too weak, early in the spring of the year 1643, they confederated with New Haven, which had already by the purchase and settlement of Stamford, Yennycook or Southold, and Totoket or Branford, become the most considerable in size and influence, and thus was formed the Jurisdiction of New Haven. The present volume contains the records of the Colony of New Haven while it remained distinct, the beginning of the records of the Jurisdiction, and the records of the Town or Plantation up to the year 1650. From April, 1644, to May, 1653, the records of the Jurisdiction are lost, save that in this volume we have the proceedings of a Court of Magistrates, June 14th, 1646, and a Court of Election October 27th, 1646." *Introduction.*

Records of the Colony or Jurisdiction of New Haven, from May, 1653, to the Union, together with the New Haven Code of 1656. Transcribed and edited in accordance with a Resolution of the General Assembly of Connecticut by CHARLES J. HOADLY.

[Vol. II.] Hartford, 1858. iv, 626 pp.

NOTE. — "The present volume comprises all the Records of the Jurisdiction of New Haven now known to exist, except the few entries in the 'Records of the Colony and Plantation of New Haven,' printed in 1857. . . . The New Haven laws are here given from the original printed copy belonging to the American Antiquarian Society." The book is of great rarity and perhaps unique. The title is "Nevv Haven's Settling in New England. — And some Lawes for Government. Published for the use of that Colony, . . . London: Printed by M. S. for Livewell Chapman, 1656."

MAINE.

Documentary History of the State of Maine.
Edited by WILLIAM WILLIS.

Vol. I. Containing a History of the Discovery of Maine. By J. G. KOHL. With an Appendix on the Voyages of the Cabots. By M. D'AVEZAC, of Paris. Published by the Maine Historical Society, aided by Appropriations from the State. Portland, 1869. (2), viii, (2), 10 — 535 pp. 8vo.

Contents. A history of the discovery of the East Coast of North America, particularly the Coast of Maine, from the Northmen in 990 to the Charter of Gilbert in 1578. By J. G. Kohl. Illustrated by Copies of the earliest Maps and Charts: Physical features of the Gulf and Coast of Maine; Discoveries of the Northmen in North-eastern America during the Middle Ages; Vinland Voyages of the Zeni; Sea chart of the Zeni; Charts of the Northmen: Map of the North Atlantic Ocean, drawn by Sigardus Stephanius, 1570; Map by Gudbrandus Torlacius, 1606; — English trading expeditions from Bristol and other English ports, toward the Northwest, principally to Iceland, during the 14th and 15th centuries: John of Kolno; Expeditions of Columbus prior to 1492; Voyage of John and Sebastian Cabot in 1497; Voyage of Sebastian Cabot in 1498; Map of Behaim, 1492; Map of Juan de la Cosa, 1500; Chart of the new world, by Johann Ruysch, 1508; The globe of Schoner, 1520; Expeditions of Gaspar and Miguel Cortereal to the north-eastern coast of America, in 1500–1503; Portuguese chart of the Coasts of Newfoundland, Labrador, and Greenland, about 1504; Pedro Reinel's chart of Nova Scotia, Newfoundland, and Greenland, about 1505; Portuguese chart of Florida, Nova Scotia, Newfoundland, Labrador, and Greenland, made about 1520; — English voyages to Newfoundland in the beginning of the 16th century; Portuguese fishermen on Newfoundland Banks; Spanish voyages to Newfoundland, Juan Dornelos, Juan de Agramonte, and Sebastian Cabot, 1500, 1511, 1515; French voyages after Cor-

tereal; English voyage to the North-west, said to have been undertaken under the command of Sebastian Cabot and Sir Thomas Pert, in 1517; Charts of the first French discoveries in "Terre Neuve:" Map of New France, by Jacomo di Gastaldi, 1550; "Terra Nueva," by Girolamo Ruscelli, 1561; Spanish expeditions along the east coast of Florida from Columbus to Ayllon, 1492–1520; Expeditions to the East coast of North America under the French, by Giovanni da Verrazano in 1524; Expedition of Estevan Gomez along the East coast of North America in 1525; Expedition of two English ships, the Mary of Guilford and the Samson, under the command of John Rut, 1527; Charts from Verrazano: Chart by Michael Lok, 1582; Map of America, by Baptista Agnese, 1536; On four maps of North America, by different authors between 1530 and 1544: Ptolemy, 1530; Ruscelli's map, 1544; Map by Diego Homem, 1540; North America from a Portolano, 1536; Charts to Gomez: Chart by Diego Ribero in 1529; Chart of the East coast of North America, by Alonzo de Chaves, in 1536, and Oviedo's Description of the coast in 1537; French expeditions to Canada in 1534–1543, and Hore's voyage, 1536; First voyage of Jacques Cartier in 1534; Second voyage, 1535; The voyage of Master Hore and other Englishmen to Cape Breton and Newfoundland in 1536; Expeditions of Jean François de La Roque de Roberval, and Jacques Cartier to Canada in 1540 and 1543; Chart of Newfoundland and the Gulf of St. Lawrence, by Gaspar Viegas, 1534; Chart of Canada and the east coast of the U. S. from a map of the world in 1543; Chart of Nicholas Vallard de Dieppe, 1543; On the engraved map of the world said to have been made by Sebastian Cabot in 1544, and the voyage said to have been made by John and Sebastian Cabot, in 1494; Diego Homem's chart, 1558; Mercator's map, 1569; Expedition of Lucas Vasquez de Ayllon to the country Chicora (Carolina), in 1526; The Expeditions of Ferdinando de Soto, Diego Maldonado, and Gomez Arias, 1538–1543; The Expeditions under Ribault and Laudonnière to Florida, and the Spanish and English undertakings connected with them, in 1562–1574; Villegagnon's expedition, 1555; Thevet's expedition, 1556; Ribault's first voyage to the East coast of Florida, Georgia, and South Carolina, in 1562; The fate of the French settlement at Port Royal, 1562–1563; Laudonnière's expedition, 1564; Voyage of Capt. John Hawkins along the coast of North America, from Florida to Newfoundland, in 1565; Third Expedition of the French to Florida under command of Jean Ribault, in 1565; Expeditions of Don Pedro Menendez de Aviles on the coast of Florida, in 1565–1567; Expedition of Dominique de Gourgues to Florida, in 1567–68; A Spanish survey of the East coast of Florida, in 1573, by Pedro Marquez.

Appendix: A Letter on the Voyages of John and Sebastian Cabot, by M. D'Avezac of Paris. Index.

Vol. II. Containing a Discourse on Western Planting, written in the Year 1584, by Richard Hakluyt. With a Preface and an Introduction by Leonard Woods, LL.D. Edited, with Notes in the Appendix, by Charles Deane. Published by the Maine Historical Society, aided by

Appropriations from the State. Cambridge, 1877. lxi, (3), 253 pp. Plates: Fac-simile of the title-page of the Discourse from the MS.; 4 folded Plates of fac-similes: of Heads of Chapters found in the Public Record office; of first Page of Letter of Hakluyt to Walsingham, Apr. 7, 1585.

Contents. Note of the Standing Committee; Editorial note, by Charles Deane; Preface, by Leonard Woods [giving an account of the discovery of the manuscript of the Discourse and its identification with the narrative presented to Queen Elizabeth as "Mr. Rawley's Voyage" and with the title "Sir Walter Raleigh's Voyage to the West Indies" to Walsingham in 1585]; A particuler discourse concerning the greate necessitie and manifolde comodyties that are like to growe to this Realme of Englande by the Westerne discoueries lately attempted, written in the yere 1584, by Richarde Hackluyt of Oxforde, at the requeste and direction of the righte worshipfull Mr Walter Rayhly, nowe Knight, before the comynge home of his twoo barkes, and is devided into XXI chapiters, the titles whereof followe in the nexte leafe. *Appendix:* Notes to Hakluyt's Discourse: Note on the Title-page; Notes on the "Heads of Chapters;" Notes on the Text of the Discourse.

NOTE. — It is thought that Hakluyt made three and possibly four copies of his "Discourse." The first copy was given to Queen Elizabeth, the second was written for Secretary Walsingham, the third for one whom he calls his "Worship" (possibly Sir Philip Sidney), and a fourth the original of the one here printed, and which is preserved in the collection of Sir Thomas Phillipps at Cheltenham. The original work was written in 1584, and the first copies contained only twenty chapters, as is shown by the "Heads of Chapters," found in the Public Record office, one copy of which bore the title, "Sir Walter Raleigh's Voyage to the West Indies," and another "Mr. Rawley's Voyage." These are not known to be extant. The copy here reprinted contains an additional chapter and a different title-page as given above, and was probably published in 1585.

Vol. III. Containing the Trelawny Papers. Edited, and illustrated with Historical Notes and an Appendix, by James Phinney Baxter, A.M. Published by the Maine Historical Society, aided by Appropriations from the State. Portland, 1884. xxxi, (1), 520 pp. Illustrated. Folded maps and plans. Fac-similes.

Contents. Memoir of Robert Trelawny; The Trelawny pedigrees; Fac-similes of autographs; the Trelawny Papers: Patent to Robert Trelawny and others, Dec. 1, 1631; Patent to Thomas Commack, Nov. 1, 1631; Power of attorney to John Winter and Thomas Pomeroy, Jan. 18, 1631; Correspondence, July 23, 1632 — Apr. 4, 1809; *Appendix:* Will of Robert Trelawny, Senior, June 30, 1627; Robert Trelawny's first will, Oct. 26, 1640; Robert Trelawny's last will, August 27, 1643; Sir Jonathan Trelawny; The Song of the Western men; John Winter to Robert Trelawny, April, 1634, May 5, 1634; John Winter's seal; Charges on Newfoundland fish; Pedigree of Sir Ferdinando Gorges; The Great Seal of the Council for New England; Account of Jordan and Ridgeway; the Will of Robert Jordan; Index.

Note. — The Trelawny patent covered Richmond's Island and the whole of Cape Elizabeth. John Winter, acting for Trelawny, took possession of the grant in 1632 and built a house in 1633 upon Richmond's Island. Winter dispossessed Cleeve, who had settled upon the main land opposite Richmond's Island, and later laid claim under the Trelawny patent to Cleeve's grant upon the Casco (including Portland), but was unsuccessful in his design. The Trelawny Papers include the records of the dispute with Cleeve. The Papers are largely concerned with Winter's reports of his transactions at the plantation on Richmond's Island. The Trelawny interest in the property, through legal manipulations, was finally annihilated, and the Winter heirs came into complete possession.

Vol. IV. Containing the Baxter Manuscripts. Edited by James Phinney Baxter, A.M. Published by the Maine Historical Society, aided by Appropriations from the State. Portland, 1889. xvi, 506 pp.

Note. — "The documents in this volume have been gathered by me during many years, from the archives of Massachusetts, the office of the Public Records in London, and the Bureau of Marine and Colonies in Paris." — *Editor.* *Comprises* papers on Maine history covering the period from 1629 to Oct. 7, 1689, principally illustrating the disputed jurisdiction of the Province by Massachusetts and Gorges. Their general character is indicated by the following list of the more important or extensive papers: Grant to Thomas Lewis and Rich. Bonython, of land at Sagadahoc, Feb. 28, 1629; Documents on Massachusetts jurisdiction over Kittery, 1651–52; List of freemen sworn at York, 1652; Commission appointed to settle the civil government at Wells and Cape Porpoise, 1653; Submission of People of Wells, Saco, and Cape Porpoise to Massachusetts, 1653; A Short view of Ann Mason's touching her lands in New England, 1653; Depositions relative to case of Hugh Gunnison, at Kittery; Dispute between Edward Godfrey and the town of York, 1654–55; Petition of York, Kittery, Wells, Saco, and Cape Porpoise to Oliver Cromwell, 1656; Submission of Black Point, Blue Point, Spurwinke, and Casco Bay to Massachusetts jurisdiction, 1658; Petition of Falmouth, May 30, 1660; Petition of George Cleeve concerning his claims to land at Cape Porpoise, Saco, Wells, and Falmouth; Request of the inhabitants of Scarborough, 1661; Petition of Wells concerning Rev. Seth Fletcher, 1661; George Cleeve *vs.* Robert Jordan; Documents relative to Gorges's claims to the Province of Maine, 1664–65; Petition of inhabitants of Cape Porpus, Apr. 28, 1668; Petition of Wells, 1668; Petition of Falmouth, 1668; Representation of Sr Lewis Kirk concerning Accadie, 1667; The title of the English to Acadia, or Nova Scotia, and the comodities it yields, 1667; A resumé; an abstract of accounts of the title to lands in Nova Scotia; Order of commissioners forbidding the exercise of jurisdiction over the Province of Maine by Massachusetts or Gorges, with other documents on the subject, 1665; Report of His Majestie's commissioners upon the colonies of Connecticut, Rhode Island, New Plymouth, Massachusetts, New Hampshire, Maine, 1665; Claims of John Littlebury, 1669; Petition of Kittery, 1673; Returne of the comitte apointed by the Genll Court, to consider of the matter p^{e}sented relating to the Province of Mayne, 1678; A Declaration of the Inhabitants of the Province of Main, 1679, in regard to Gorges's claim; Indenture between Thos Danforth and Captain Edward Tyng and others, 1684, in regard to holders under Gorges's grants; Mémoire sur l'état de la situation et la disposition en laquelle sont les habitans du pays de l'Arcadie; Papers relative to operations at Falmouth, 1689.

MASSACHUSETTS.

MASSACHUSETTS BAY COLONY.

Records of the Governor and Company of Massachusetts Bay in New England.

Printed by order of the Legislature. Edited by NATHANIEL B. SHURTLEFF, M.D.

Vol. I. 1628–1641. Boston, 1853. xv, 479 pp. 4to.

Contents. The Charter of the Colony of Massachusetts Bay in New England, 1628-9; The Records of the Governor and Company of the Massachusetts Bay in New England, 1628–1630 (prior to arrival in America); The Records of the Colony of the Massachusetts Bay in New England, 1630–1641; Miscellaneous Records: Coppies of ye Oathes appertaininge to ye New England Companye; John Pratt's Answer to the Court; Court Order, April 30, 1629, May 21, 1629; Freemen of the Colony of the Massachusetts Bay in New England, 1631–1641. *Appendix:* Letters from the Governor and Company of Massachusetts Bay in New England: Matthew Cradock, Feb. 16, 1628–9; First Letter of Instructions from the Governor and Company, April 17, 1629; Second Letter of Instructions, May 28, 1629; Letter from the Governor and Company to the Ministers, Oct. 16, 1629; Letter to Gov. Endecott, Oct. 16, 1629. General Index; Index of Freemen, 1631–1641.

NOTE. — There were two editions of this volume issued without any change in the title-pages. The second edition contained the following changes: to include the new material supplied by the Barlow manuscript; ten pages, numbered 37 *a* to 37 *j*, were inserted, and on page 346 the page was filled out with new matter.

Vol. II. 1642–1649. Boston, 1853. vii, 344 pp.

Contents. The Records of the Colony of the Massachusetts Bay, 1642–1649; Miscellaneous Records: Freemen of the Colony of the Massachusetts Bay, 1642–1649. General Index; Index of Freemen, 1642–1649.

NOTE. — There were two editions of this volume, as well as of the first volume, issued without any change in the titlepage of the second. "In Volume II. (which begins, in the first edition, with page 3) two whole pages were inserted, — numbers 1 and 2, and the first half of page 3. The former page 3 was cancelled, the two bottom lines . . . being carried over to page 4, and the spaces on page 4 being readjusted, so that page 4 ends alike in both editions." — *W. H. Whitmore.*

Vol. III. 1644–1657. Boston, 1854. xiii, (3), 510 pp.

Contents. The Records of the House of Deputies, 1644–1657 (in fact the Records of the Colony, as kept by the Clerk of the Deputies).

Vol. IV., Part I. 1650–1660. Boston, 1854. v, (3), 518 pp.

Contents. Records of the Colony of the Massachusetts Bay, May, 1650–Dec. 19, 1660; Miscellaneous Records: Freemen of the Colony, 1650–1660; General Index; Index of Freemen, 1650–1660.

Vol. IV., Part II. 1661–1674. Boston, 1854. v, (3), 647 pp.

Contents. Records of the Colony of the Massachusetts Bay, May 23, 1661, to March, 1673–4; Miscellaneous Records: Freemen of the Colony, 1661–1674; General Index; Index of Freemen, 1661–1674.

Vol. V. 1674–1686. Boston, 1854. v, (3), 615 pp.

Contents. Records of the Colony of the Massachusetts Bay, May 27, 1674–May, 1686; Miscellaneous Records: Grant to William Blathwayt, May 19, 1680; Deputation of William Blathwayt to Edward Randolph; Certificate of appointment of William Dyre, Surveyor-General of Customs; Power of Attorney from John Awassamoag, 1684; Deed from John Awassamoag and others, Jan. 21, 1684–5; Deed from Thomas Awassamoag to Edward Rawson, April 21, 1685; Freemen of the Colony, 1674–1686; General Index; Index of Freemen, 1674–1686.

Plymouth Colony.

Records of the Colony of New Plymouth in New England.

Printed by order of the Legislature of the Commonwealth of Massachusetts. Edited by Nathaniel B. Shurtleff, M.D.

Vol. I. Court Orders: 1633–1640. Boston, 1855. xii, (4), 190 pp. 4to.

Contents. The Names of the Freemen, 1633; Acts and Passages of Court, and Grants of Land, from ye year 1632 until the year 1640.

Vol. II. Court Orders: 1641–1651. Boston, 1854. v, (3), 202 pp.

Vol. III. Court Orders: 1651–1661. Boston, 1855. v, (3), 250 pp.

Note. — "The third volume of the Court Orders of the Colony of New Plymouth is contained in a manuscript of about three hundred and forty pages, all in the handwriting of Mr. Nathaniel Morton, Secretary of the Colony. It comprises the records of the latter part of the administration of Governor William Bradford, and the first part of that of Governor Thomas Prence."

Vol. IV. Court Orders: 1661–1668. Boston, 1855. v, (3), 218 pp.

Note. — "The manuscript of the fourth volume of Court Orders of the Colony of New Plymouth . . . is entirely in the well-known chirography of Mr. Nathaniel Morton. . . . It embraces a period of seven years, during the whole of which time Mr. Thomas Prence was Governor of the Colony."

Vol. V. Court Orders: 1668–1678. Boston, 1856. v, (3), 315 pp.

Note. — *Contains* the Acts of the General Court and the Court of Assistants, with grants of land, and other entries of a more miscellaneous character, among which will be found a list of Freemen on May 29, 1670. Gov. Prence's administration ended March, 1673; during the remainder of the period covered by this volume Josiah Winslow was Governor. Includes record of proceedings in regard to King Philip's War.

Vol. VI. Court Orders: 1678–1691. Boston, 1856. v, (3), 300 pp.

Note. — During the period covered by this volume, the Governors of the Colony were Josiah Winslow, who died in office, Dec. 18, 1680, and Thomas Hinckley, who served in that capacity until the Union with Massachusetts, in 1692, with the exception of the period of the Andros usurpation.

Vol. VII. Judicial Acts: 1636–1692. Boston, 1857. v, (3), 339 pp.

NOTE. — "This volume comprises the Record of the Judicial Acts of the General Court and Court of Assistants of the Colony of New Plymouth. . . . The first Act recorded bears date the third of January, 1636–7, and the last the fifth of April, 1692, consequently extending until the union of the Massachusetts and Plymouth colonies." Prior to 1637, the acts of this character were incorporated in the records of Court Orders.

Vol. VIII. Miscellaneous Records: 1633–1689. Boston, 1857. v, (3), 283 pp.

Contents. Records of Births, Marriages, Deaths, and Burials in the several towns of the Colony of New Plymouth, as they were returned by the respective town clerks, 1647–1687 (Yarmouth, Plymouth, Sandwich, Eastham, Scituate, Taunton, Barnstable, Swansey, Rehoboth, Marshfield); Treasury Accounts, 1658–1686; Lists of the Names of Freemen and others taken at various times; Freemen of Plymouth, Duxbury, Scituate, Sandwich, Taunton, Yarmouth, Barnstable, Marshfield, Rehoboth, Nawsett; Names of such as have taken the Oath of Fidelitie, 1657, of Marshfield, Rehoboth, Barnstable, Sandwich, Scituate, Plymouth, Duxbury, Sandwich, Eastham, Bridgewater, Cohannet, Yarmouth, Taunton; 1643, The Names of all the Males that are able to bear armes, Plymouth, Duxbury, Scituate, Sandwich, Barnstable, Yarmouth, Taunton; List of Freemen in the different towns, taken about 1658; List of Freemen, taken 1683–4; List of Freemen received and admitted, June, 1689.

Index to Births, Marriages, Deaths, and Burials; Index to Towns, etc.; Index to Treasury Accounts, and Names of Freemen.

Vol. IX. Edited by DAVID PULSIFER. Acts of the Commissioners of the United Colonies of New England. Vol. I., 1643–1651. Boston, 1859. xvi, (8), 237 pp. Facsimiles.

Contents. Agreement respecting the bounds betwixt Plymouth and Massachusetts, 1640, Articles of Confederation Betweene the Plantacôns vnder the Goûment of the Massachusetts the Plantacôns vnder the Goûment of New Plymouth, the Plantacôns under the Goûment of Connectacutt and the Goûment of New Haven, 1643; Acts of the Commissioners, 1643–1651; The Petition of Humphrey Johnson, and Answer of the Court thereto, 1684.

Vol. X. Acts of the Commissioners of the United Colonies of New England. Vol. II., 1653–1679. Boston, 1859. viii, (4), 492 pp. Facsimiles.

NOTE. — The Appendix contains: "Records of several meetings of the Commissioners, which are omitted from the Plymouth copy; namely, the informal meeting at Plymouth, September, 1652; the special meeting at Hartford, August, 1673; meetings at Hartford, September, 1678; at Boston, August, 1679; and at Hartford, September, 1684," furnished by J. Hammond Trumbull, from the Connecticut Archives; Documents, and Extracts from the Council Records of the Massachusetts Colony, 1644–1650.

Vol. XI. Laws, 1623–1682. Boston, 1861. xi, (1), 274 pp. Facsimiles in the text.

Vol. XII. Deeds, etc. Vol. I., 1620–1651. Book of Indian Records for their Lands. Boston, 1861. vii, (1), 264 pp. Facsimiles.

Note. — Consists of reprint of the manuscript volume entitled "Plimouth's Great Book of Deeds of Lands enrolled from Anº 1627 to Anº 1651."

NEW HAMPSHIRE.

Provincial Papers. Documents and Records relating to the Province of New-Hampshire, from the earliest period of its Settlement, 1623–1686.

Published by authority of the Legislature of New Hampshire. Compiled and edited by Nathaniel Bouton, D. D.

Vol. I. Concord, 1867. x, (2), 629 pp. 8vo.

Contents. The Province of New-Hampshire from 1623 to 1686, preliminary Notices by the Editor; Ancient Grants and other Documents relating to the Province, prepared by Samuel D. Bell; Mason's will; Dover and Swampscot patents; The Wheelwright Deed; Original Province Papers, contained in "Book I. Province Records," 1631–1650; Miscellaneous items relating to New-Hampshire, between 1629 and 1636; Documents and facts relating to Settlements in New-Hampshire, from 1631 to 1641, previous to submission to the Government of Massachusetts: Portsmouth, Dover; Names of Stewards and Servants sent by John Mason into this Province of New-Hampshire; Exeter, Hampton; Exeter combination, 1639; Indian deeds to Wheelwright and others, 1638; Exeter First Book of Records; Ancient Documents and Records relating to New-Hampshire, subsequent to Massachusetts' jurisdiction, from 1641 to 1679 (includes documents on Dover and Swampscot patents; Hampton petition, 1643; Exeter petition, 1643; Bloody Point petition, 1644; Dover petitions, 1646, 1652, 1654; Strawberry Bancke petitions, 1651, 1653; Petition from Portsmouth, 1654; Witchcraft in New Hampshire, 1656; Quakers); Papers relating to the visit of the King's Commissioners so far as respects New-Hampshire, from Documents relating to the Colonial History of New York; Same from Massachusetts records (including petitions from Portsmouth, Dover, Exeter, etc., regarding Massachusetts jurisdiction); Portsmouth address concerning the College, 1669; Petition of Oyster River for a Minister, 1669; Answer of Massachusetts to Mason's and Gorges's complaints; Documents relating to Indian troubles at Piscataqua and the Eastern parts, from 1675 to 1678; Names of Deputies from towns in New-Hampshire, to the General Court of Massachusetts, from 1641 to 1679; The Commission constituting a President [John Cutt] and Council for the Province of New Hampshire, 1679; Province laws; Address of the General Court of New-Hampshire to the King, 1680; Witchcraft; Province rate of Hampton, Exeter, Cocheco, Dover Neck, Bloody Point, Portsmouth,

1680; Fast proclamation, 1681; Commission of Edward Cranfield, 1682; Instructions to Cranfield; Province laws under Cranfield; Cranfield's administration; Petition of the Inhabitants of New Hampshire against Robert Mason, 1685; Barefoot's administration; Letters or petitions from John Hogkins, one of the Sachems of the Penacook Indians; Hon. Joseph Dudley's administration, as President of his Majesty's territory and dominion in New-England. Index.

Vol. II. 1686 to 1722: being Part I. of papers relating to that Period. Manchester, 1868. vi, 764 pp.

Contents. Commission and administration of Sir Edmund Andros; Unsettled state of the Province from April 18, 1689, to 1692; Proceedings of the people at Hampton, 1689; at Dover, Exeter, Portsmouth; New Hampshire petition, Feb. 20, 1689–90; Documents relating to Wars with the Indians, 1687–1690, including the Massacre at Dover, June, 1689; Commission and Instructions to Gov. Samuel Allen, 1692; Minutes of Council, under the administration of Lieut.-Gov. John Usher, 1692–1696; Custom House returns, 1692; Great Island, petition for a Township; Charter of New Castle; Indian treaty, at Pemaquid, Aug. 11, 1693; Massacre at Oyster River, 1694; Grant of the town of Kingston, 1694; Records of Council, 1696–1723; Association to stand by the Protestant Succession; Commission of Lt.-Gov. Wm. Partridge; Submission of the Eastern Indians, 1698; Commission of the Earl of Bellomont, 1698; Papers relating to the Earl of Bellomont's Administration, so far as respects New Hampshire; Commission of Gov. Joseph Dudley; Commission of Lieut.-Governor John Usher; Province Seal; Trial before the Superior Court of Judicature, of the Province of New Hampshire, Allen *vs.* Waldron, 1707; Privateering; Instructions to Governor Dudley; Notice of Joseph Smith; New Province Seal; Failure of the Expedition against Canada, 1711; Treaty of Utrecht, — Proclamation; Notice of Charles Story; Lieutenant-Governor Vaughan's complaint and speech; Commission to Lieutenant-Governor Wentworth; Settlement of Scotch Irish at Nutfield (Londonderry).

Vol. III. 1692 to 1722: being Part II. of Papers relating to that Period, containing the "Journal of the House and General Assembly." Manchester, 1869. vii, 853 pp.

Contents. Journal of the Council and General Assembly, 1692–1722; Estimates of cost of building a fort at New Castle, 1700; Laws of the Province of New-Hampshire, from 1692–1702; Title of Samuel Allen to Province lands, 1704; Gov. Joseph Dudley's Speeches; Commission of John Bridger as Surveyor-General of all Her Majesty's woods; An act for a Free School to be kept at Portsmouth, 1708; Petition of inhabitants of Quamscott patent for a Charter; Petition of Inhabitants of the south part of Hampton, Hampton Falls, in relation to maintenance of a Minister, 1709; Expedition to Port Royal, 1710; Capture of Port Royal, 1710; Expedition against Canada, 1711; Petition from Hampton Falls in regard to school maintenance, 1712; Petition of Kingston, 1712; Articles of

Pacification with the Eastern Indians, 1713; Petition of the Inhabitants of Bloody Point, 1713; Petition of Dover, 1715; Sketch of Sir Charles Hobby; Sketch of Gov. Samuel Shute, with his address to the Legislature, 1717; Petition of Portsmouth, 1717; Treaty with the Eastern Indians at Georgetown, 1717; Sketch of John Bridger, Surveyor-General, 1719; Apology of the People of Nutfield to Governor Shute, 1719–20.

NOTE. — The Journal of the Council and Assembly contained in this volume records the joint transactions of the two bodies. The Assembly's acts required the approval of the Council to give them force. The preceding volume of this series concerned the Acts of the Council as the Executive body of the Province. "No Journal of the House, separate from the joint Journal of the Council and Assembly, is found till 1711, and this is very meagre and incomplete till 1722."

Vol. IV. 1722 to 1737: containing important Records and Papers, pertaining to the Settlement of the Boundary Lines between New-Hampshire and Massachusetts. Manchester, 1870. viii, 891 pp.

Contents. Records of Council, administration of Lt.-Gov. John Wentworth; Journal of the General Assembly, April 30, 1722, to April 22, 1729; Submission of Eastern Indians, 1725; Treaty with the Indians at Casco, 1727; Journal of the House of Representatives, 1722–1724; List of tax payers in New Castle in 1728; Administration of Governor William Burnet: Journal of the House of Representatives from April 22, 1729, to Aug. 1, 1730; Journal of the Council and Assembly from April 22, 1729, to April 23, 1730, during Governor Burnet's administration; Administration of Governor Jonathan Belcher: Journal of the House from August 25, 1730, to October 20, 1737; Petition of inhabitants of Chester, 1737; Journal of the General Assembly under the administration of Governor Jonathan Belcher, from August 25, 1730, to October 20, 1737; Correspondence, chiefly between Theodore Atkinson and Capt. John Thomlinson, agent of the Province in London, relating mostly to the settlement of the boundary lines between the Massachusetts Bay and New Hampshire; The Belcher correspondence, 1731–1737: Correspondence of Gov. Jonathan Belcher with Secretary Waldron and others of the New Hampshire Province.

NOTE. — "Contains all the Proceedings of the Governor, Council, and General Assembly of the Province, and all official documents and papers found in the Secretary's office, relating to the long controversy between New Hampshire and Massachusetts, in respect of the Boundary lines between the two Provinces."

Vol. V. 1738 to 1749: containing very valuable and interesting records and papers relating to the Expedition against Louisbourg, 1745. Nashua, 1871. viii, 962 pp.

Contents. Administration of Gov. Jonathan Belcher; Journal of the House, Nov., 1738–Feb. 25, 1739–40; Miscellaneous papers: Standards of weights; Province accounts, 1724–1740; Bills of Credit; Petition of Rev. Hugh Adams of Durham concerning his Maintenance; Letters of Rev. Hugh Adams; Order for fitting out Privateers, 1739; Orders relative to Spanish prizes, 1739–40; Address of the House of Commons about the

value of Gold and Silver, and Bills of Credit, 1739; Declaration of war against Spain; Certificate respecting Bills of Credit, &c., Dec. 31, 1739; Letters to Governor Belcher concerning an Expedition to New Spain, &c., 1709–40; Journal of the General Assembly, Nov. 1, 1738–March 18, 1740–1; Administration of Gov. Benning Wentworth: Records of the Council, 1742–67, 1772–74; Journal of the House of Representatives under the administration of Gov. Benning Wentworth, 1741–2–June 4, 1748; Miscellaneous papers: Bill for taxing the New Districts; Report of committee to call the first meetings in Towns, 1742; Memorandum of sundry stores at Fort William and Mary, 1742; — List of the Commissioned officers in the Sixth regiment of Militia in the Province of New Hampshire; Cape Breton Expedition, plan of operations, 1745; Documents relating to Fort Dummer; Journal of the General Assembly, 1742–1750; Massachusetts Bill projected to sink the Paper Currency, &c.; Memorial of officers at Louisbourg; Agreement between John Thomlinson and John Tufton Mason, relative to purchase of Mason's claim; Letter from Masonian Proprietors to the Committee on Province Lands, 1746; Answer to Queries respecting the reduction of Canada, 1746; Petition of inhabitants of Stratham, 1746; Petition of inhabitants of Pennycook for a further supply of Soldiers, 1747; Important Documents comprising Letters and Papers relating to preceding matters in this volume: Petitions to the King from Inhabitants of New Hampshire in favor of Governor Belcher; Petition of John Thomlinson, 1739 ("gives a more comprehensive and complete view of the whole dispute respecting the boundary lines, than can elsewhere be found"); Thomlinson papers, 1741; Shirley Papers in relation to the Louisbourg expedition, 1744–5; List of New Hampshire men in Col. Samuel Moore's regiment engaged in the Louisbourg expedition, 1745.

Note. — "This volume is of great interest and historical value, as containing all the official records and documents found in the Secretary's office and elsewhere, relative to the part which New Hampshire took in the Expedition against Louisbourg, 1745. . . . The attention of readers is also particularly invited to the documents contained in this volume relative to the final determination of the boundary line between New Hampshire and Massachusetts, and the very able papers drawn up by John Thomlinson in the latter part of the volume, . . . and the failure of the intended expedition against Canada, 1746 and 1747."

Vol. VI. 1749 to 1763: containing very valuable and interesting Records and Papers relating to the Crown Point Expedition, and the Seven Years' French and Indian wars, 1755–1762. Manchester, 1872. xii, 929 pp.

Contents. Administration of Gov. Benning Wentworth, 1749–1763: Records of His Majesty's Council, 1750–1763; Correspondence showing a conspiracy for the removal of Gov. Benning Wentworth from office; Journal of the House of Representatives, 1748–1763; Special conventions called August, 1754; Indian troubles at Stevens-Town and vicinity; Correspondence on Indian hostilities; Names of men in service on Merrimack River; Connecticut River; of men posted in the neighbourhood of Keene and Fort

Dummer; Journal of Walter Bryent in running the line between New Hampshire and the Province of Maine, 1741; Journal of a Special Convention relating to Expedition to Crown Point, 1755; Letter from Col. Blanchard from Albany, Aug. 28, 1755; Proceedings of a Council of War held by Governor Shirley at New York, Dec. 12, 1755; Grant of £30,000 for Crown Point expedition; Journal of Special Convention, Sept., 1756, concerning Loudon's report of the fall of Oswego; Petition against a Play-House in Portsmouth, 1762; Miscellaneous papers: Correspondence between John Thomlinson, Secretary Atkinson, and others; A Representation of the Lords of Trade, respecting New Hampshire, 1753; Report of agents empowered to receive the money voted by Parliament to the Colonies; Commissions of Gov. Benning Wentworth, from His Majesty, George III., 1760.

Note. — This volume includes documents, acts, &c., relative to the controversy between the House of Representatives and Gov. Benning Wentworth; the official proceedings of the Government and the part of the inhabitants in the French and Indian wars; the extension and growth of the settlements in the Northern and Western sections of the Province; the encouragement of Rev. Eleazar Wheelock's education of the Indians.

Vol. VII. 1764 to 1776; including the whole Administration of Gov. John Wentworth; the events immediately preceding the Revolutionary War; the losses at the Battle of Bunker Hill, and the record of all proceedings till the end of our Provincial history. Nashua, 1873. xxi, 799 pp.

Contents. Administration of Gov. Benning Wentworth, 1764–1767; Records of the Council, 1764–1774; Journal of the House, during the administration of Gov. Benning Wentworth, 1764; Proclamation relating to the boundary between New York and New-Hampshire, 1764; Petition of Rev. Timothy Walker in relation to Bow, N. H., 1764; Proceedings of the General Congress at New York, 1765; Petition of the Colonies in relation to the Stamp Act, 1765; Declaration adopted by the Congress at New York, 1765; Administration of Gov. John Wentworth; Commission of John Wentworth; Journal of the House, 1767–1775; Census of New Hampshire, 1767; Division of the Province into five Counties; Letter from Governor Bernard on the boundary line between New-Hampshire and Massachusetts, 1767; Instructions to Jonathan Belcher relative to the Boundary line, 1740; Correspondence with Virginia and Maryland on the late act of the British Parliament, 1768–69; Road from the Governor's house in Wolfeborough to Dartmouth College, 1771; List of rateable estates in the towns of the Province, 1773; Papers relating to the complaint made by Peter Livius against Gov. John Wentworth, 1773; Fac-similes of the signatures of the Provincial Chief Magistrates of New Hampshire from 1686 to 1775; Revolutionary Proceedings: Commencement of organized action in New Hampshire in the Revolution; First Provincial Congress; Letters relating to the landing of tea at Portsmouth; Frances Town resolves, 1774; Seizure of Fort William and Mary at New Castle, 1774; Non-importation Association; Memorial to the Colonies from the Continental Congress; Address to the King; Second

Provincial Congress; Hillsborough County Congress; Third Provincial Congress; Fourth Provincial Congress, Journal, May, 1775; Correspondence: Letters of Committee of Safety, etc., 1775; Fifth Provincial Congress; Journals of the Conventions in Congress which assembled at Exeter, Dec. 21, 1775; Miscellaneous documents: Sundry documents relating to Surveys, Boundaries, and Population of New Hampshire; Attack on Quebec, 1775; Census of New Hampshire, 1775.

State Papers. Documents and Records relating to the State of New Hampshire during the Period of the American Revolution.

Vol. VIII. From 1776 to 1783; Including the Constitution of New-Hampshire, 1776; New Hampshire Declaration for Independence; the "Association Test," with names of Signers, &c.; Declaration of American Independence, July 4, 1776; the Articles of Confederation, 1778. Concord, N. H., 1874. xxviii, 1006 pp.

Contents. Journal of the House of Representatives, 1775–76; Correspondence, 1776; Journal of the House, March 6, 1776–March 23, 1776; Correspondence, Committee of Safety, etc., March 23, 1776–June 4, 1776; List of members of the House, June, 1776; Journal of the House, June 5, 1776–July 6, 1776; Returns of the Association test: list of signers in the various towns of New Hampshire; Correspondence, July 5, 1776–Aug. 23, 1776; Journal of the House, Sept. 4, 1776–Sept. 20, 1776; Special convention for raising troops, Oct., 1776; Correspondence, Aug. 23–Nov. 28, 1776; Journal of the House, 1776–77; Correspondence between April 12–June 4, 1777; Journal of the House, June 4, 1777–July 19, 1777; Correspondence, July 19–Sept. 17, 1777; Journal of the House, Sept. 17, 1777–Sept. 27, 1777; Correspondence, Sept. 30–Dec. 7, 1777; Journal of the House, Dec. 17–March 14, 1778; Articles of Confederation; Journal of the House, Aug. 12–Nov. 28, 1778; Public acts [in regard to the Loyalists]; Proceedings of General Assembly, Dec. 25, 1778, to April 3, 1779; Resolves of a convention held on the New Hampshire grants [at Cornish], Dec. 9, 1778; Proceedings of the General Assembly, Dec. 26, 1778–April 3, 1779; Dec. 15, 1779–Jan. 1, 1780; Feb, 9, 1780–March 18, 1780; April 19–29, 1780; June 7, 1780–June 28, 1780; Correspondence, Aug. 18, 1780–Oct. 6, 1780; Proceedings of the General Assembly, Oct. 11, 1780–Nov. 11, 1780; Dec. 20, 1780–Jan. 27, 1781; March 14, 1781–April 11, 1781; June 13, 1781–July 4, 1781; Aug. 22, 1781–Sept. 1, 1781; Nov. 7–Nov. 24, 1781; Dec. 19, 1781–March 27, 1782; Sept. 10–14, 1782; Nov. 13–22, 1782; Dec. 18, 1782–March 1, 1783; Names of sick and wounded Soldiers; Proceedings of the General Assembly, June 10–20, 1783.

Town Papers. Documents and Records relating to Towns in New Hampshire; with an Appendix embracing the Constitutional Conventions of 1778–1779; and of 1781–1783; and the State Constitution of 1784. Vol. IX. Concord, 1875. xli, (1), 939 pp.

Contents. The Wheelwright Deed, by the Editor; Town Papers (alphabetically arranged by Towns); *Appendix:* Constitutional Conventions in New Hampshire, 1778–1783, with the Constitution established in 1784: List of Delegates chosen from the several Towns, classed Towns, and Places in New Hampshire, in 1778 to meet at Concord, June 10, for the purpose of forming a new Constitution; The Constitution proposed in 1779: A Declaration of Rights and Plan of Government for the State of New Hampshire; The Second Constitutional Convention, list of Delegates; An Address of the Convention for framing a new Constitution of Government, for the State of New Hampshire to the Inhabitants of the State, sent out, 1781; Proposed Constitution of 1781; Second Address of the Convention for framing a new Constitution or form of Government for the State of New Hampshire to the Inhabitants of said State, sent out in 1782; A Constitution, containing a Bill of Rights, and form of Government, agreed upon by the Delegates of the people of the State of New Hampshire, in Convention, held at Concord, on the first Tuesday of June, 1783; submitted to, and approved of, by the people of the State; and established by their Delegates in Convention, Oct. 31, 1783, with a note on the "Bill of Rights" as regards Slavery in New Hampshire, by the Editor.

Note. — The present volume has its chief value from the light thrown upon the settlements of the Towns, their struggles with the Indians, their boundary line disputes, locations of meeting-houses, settlement and maintenance of ministers, &c.

Provincial and State Papers. Miscellaneous Documents and Records relating to New Hampshire at different periods.

Vol. X. Including —

(i) Journal of the N. H. Convention which adopted the Federal Constitution, 1788.

(ii) Journal of the Convention which revised the State Constitution in 1791–1792.

(iii) The Great Controversy relating to the "New Hampshire Grants" (so called), 1749 to 1791; including troubles in border Towns on both sides of the Connecticut River, 1781–1783.

(iv) Letters, &c., of Committee of Safety, 1779 to 1784.

(v) Census of 1773.

(vi) Census of 1786.

(vii) Appendix, containing Copies of Ancient Grants, &c., supplementary to Volume I.

Concord, 1877. xxvi, (2), 719 pp.

Contents. Journal of the Proceedings of the Convention of the State of New Hampshire which adopted the Federal Constitution, 1788; List of Delegates, with Biographical notes by the Editor; Journal of the Convention which assembled, in Concord, to revise the Constitution of New Hampshire, 1791-1792; List of Delegates, with Biographical sketches by the Editor; The Controversy between New Hampshire, New York, and Vermont, relating to

the "New Hampshire grants" (so called) from 1749 to 1791; including the Troubles in border Towns on both sides of the Connecticut River: Controversy with New York in relation to Boundaries; Proceedings in relation to the New Hampshire Grants under the Administration of Gov. John Wentworth; Brief history of the Controversy with Vermont, by Jeremy Belknap; Discontent in the border Towns of New Hampshire lying east of Connecticut River; — An Address of the Inhabitants of the Towns of Plainfield, Lebanon, Enfield (alias Relhan) Canaan, Cardigan, Hanover, Lime, Orford, Haverhill, Bath, and Landaff, to the Inhabitants of the Several Towns in the Colony of New Hampshire. Norwich: Printed by John Trumbull, M,DCC,LXXVI. (*Reprint*); — Vermont assumes Government — New York opposes: Declaration and Petition of the Inhabitants of the New Hampshire Grants to Congress, Jan. 15, 1777; Vermont asks aid from New Hampshire; — Observations on the Right of Jurisdiction claimed by the States of New York and New Hampshire, over the New Hampshire Grants (so called) lying on both sides of Connecticut-River. Danvers: Printed by E. Russell. MDCCLXXVIII. (*Reprint*); — An Address to the Inhabitants of the New Hampshire Grants (so called) lying westward of Connecticut River, by Timothy Walker; — First attempt of border Towns in New Hampshire to unite with Vermont; — A Public Defence of *the right* of the New-Hampshire Grants (so called) on both sides Connecticut-River, to associate together, and form themselves into an Independent State. Dresden: Printed by Alden Spooner, 1776. (*Reprint*); — Measures to form a new State of towns on both sides of Connecticut River: Resolves of a Convention held on the New Hampshire Grants at Cornish, Dec. 9, 1778; Address to the Inhabitants of the State of Vermont, by Ira Allen, dated at Dresden, Nov. 27, 1778; Final dissolution of the Union of Towns east of Connecticut River with Vermont, 1779; Proposal to unite all the New Hampshire Grants with the State of New Hampshire; Reference to Congress of Matters in Controversy, 1779; Address by Ira Allen to the inhabitants of the State of Vermont, July 13, 1779; Fresh measures to form a new State of the New Hampshire Grants on both sides the Connecticut River: Proceedings of a Convention at Walpole, Nov. 15, 16, 1780; Convention at Charlestown, N. H., Jan. 16, 1781; Disputed Jurisdiction between New Hampshire and Vermont; Memorial of inhabitants of Chesterfield, Aug. 25, 1781; Report of a Committee of Congress, to whom was referred papers relative to New Hampshire, Oct. 17, 1781; Commission to Commissioners of Vermont, for the settlement of Boundary lines, 1781; — Collision in border towns, 1781–82; — Copy of Letters, Orders, &c., by the New Hampshire Committee of Safety, 1779 to 1784 (These papers consist of copies of letters written by the Committee of Safety, 1779–1784, in relation to current matters, and are of historical value "as showing the embarrassments of the country, — the difficulty of raising money for the support of the war; the dangers of frontier towns; the patriotic spirit of the committee, and the sacrifices made by the people"); — Census of 1773; Census of 1786; *Appendix:* The Grant of the Province of Laconia to Sir Ferdinando Gorges and Capt. John Mason, Nov.

17, 1629; The Squamscott or Hilton's Point Patent, Mar. 12, 1629 (O. S.); The Dover Combination, with the names of all the original signers, Oct. 20, 1640; Letter from Capt. Thomas Wiggin to Sir John Cooke, Nov. 19, 1632 [in regard to Massachusetts Colony, and the Machinations of Sir Christopher Gardiner, Thomas Morton, and Ratcliffe].

Town Papers. Documents relating to towns in New Hampshire, "A" to "F" inclusive, with an Appendix, embracing copies, in Fac-Simile, of the First Constitution of this State as adopted January 5, 1776; the Proclamation sent out to the people declaring the said Constitution to be in force; and a Constitution framed in June, 1779, which was rejected by the People. Also, other interesting and valuable documents.

Vol. XI. Compiled and edited by Isaac W. Hammond. Concord, 1882. xxx, (2), 812 pp. 3 folded broadsides.

Contents. Acworth; Albany; Alexandria; Alstead; Allenstown; Alton; Amherst; Antrim; Andover; Atkinson; Barnstead; Barrington; Bartlett; Bath; Bedford; Bethlehem; Benton; Boscawen; Bow; Bradford; Brentwood; Bridgewater; Brookline; Campton; Canaan; Candia; Canterbury; Centre Harbor; Charlestown; Chatham; Chester; Chesterfield; Chichester; Claremont; Colebrook; Columbia; Concord; Conway; Cornish; Croydon; Dalton; Danbury; Danville; Deerfield; Deering; Dorchester; Dover; Dublin; Dunbarton; Durham; East Kingston; Eaton; Effingham; Enfield; Epping; Epsom; Errol; Exeter; Fitzwilliam; Francestown; Franconia; Fremont. *Appendix:* Documents relative to the service done in the French War by the Quakers of Dover, Durham, Madbury, Rochester, Barrington, and Somersworth; Letter from Col. Theodore Atkinson, Dec. 13, 1768, in regard to boundary between N. H. and N. Y.; Proclamation to the insurgents in Cheshire and Grafton counties, Jan. 12, 1782; Roll of Capt. William Barron's company, for Canada, 1776; Documents relative to Charter Records; Documents relative to boundaries of several towns in Grafton County, 1780–1793; Col. Benjamin Sumner's Scheme to secure an alliance with the Indians in Canada, 1800; Documents printed in fac-simile (broadsides): First Constitution of New Hampshire, 1776; Proclamations declaring the same to be in force; Amended Constitution of 1779, which was rejected by the People (this last is on a folio sheet printed at Exeter, 1779), headed "A Declaration of Rights, and Plan of Government for the State of New Hampshire."

Note. — Collects under each town copies of all the written instruments accessible in the State Department relating to the settlement, incorporation, boundary lines, church matters, maintenance of ministers, roads, currency, taxes, etc., of the towns throughout the State. "These documents have been carefully copied from the original manuscripts, scrupulously preserving the orthography, punctuation, capitalization." The volume "contains a large number of names of early residents. . . . Some papers having been published mainly for giving the names signed to them. . . . The editor has compiled an introduction to each town, containing in brief many facts relative to its grant, settlement, incorporation, origin of name, etc."

Vol. XII. Gilmanton to New Ipswich, with an Appendix, embracing some Documents relative to Towns which have been returned to the State Archives since the publication of Volume XI. Concord, 1883. xxxii, (2), 854 pp.

Contents. Gilmanton; Gilsum; Goffstown; Goshen; Grafton; Grantham: Greenfield; Greenland; Groton; Hampstead; Hampton; Hampton Falls; Hancock; Hanover; Haverhill; Henniker; Hill; Hillsborough; Hinsdale; Holderness; Hollis; Hooksett; Hopkinton; Hudson; Jackson; Jaffrey; Jefferson; Keene; Kensington; Kingston; Lancaster; Landaff; Langdon; Lebanon; Lee; Lempster; Lincoln; Lisbon; Litchfield; Littleton; Londonderry; Loudon; Lyman; Lyme; Lyndeborough; Madbury; Manchester; Marlborough; Marlow; Mason; Meredith; Merrimack; Middleton; Milford; Monson; Moultonborough; Nashua; Nelson; New Boston; Newbury; New Castle; New Durham; New Hampton; Newington; New Ipswich. *Appendix:* List of Saratoga men, 1777; Boscawen enlistments, etc., 1776, 1778, 1779; Bow returns of soldiers, enlistments, 1776, 1778, 1780; Canterbury train band, enlistments, etc., 1776, 1780, 1781; Chichester return of Capt. Cram's company, 1776; Concord enlistments, 1779 and 1781; Agreement between the town of Exeter and Edmund Gilman, 1647; Deed of Wadononamin, to Edward Hilton, 1660. Documents relative to a Convention of delegates from towns in Hillsborough and Cheshire counties, 1783.

NOTE. — "Many valuable documents relative to soldiers of the various Indian and French and Revolutionary Wars may be found in this and the preceding volume." — *Preface.*

Vol. XIII. New London to Wolfeborough, with an Appendix, embracing some Documents, interesting and valuable, not heretofore published, including the Census of New Hampshire of 1790 in detail. Concord, 1884. xxxi, (3), 856 pp.

Contents. New London; New Market; Newport; Newton; Northfield; North Hampton; Northumberland; Northwood; Nottingham; Orange; Orford; Ossipee; Pelham; Pembroke; Peterborough; Piermont; Pittsfield; Plainfield; Plaistow; Plymouth; Portsmouth; Raymond; Richmond; Rindge; Rochester; Roxbury; Rumney; Rye; Salem; Salisbury; Sanbornton; Sandown; Sandwich; Seabrook; Shelburne; Somersworth; South Hampton; Springfield; Stark; Stewartstown; Stoddard; Stratford; Stratham; Sullivan; Sunapee; Sharon; Surry; Sutton; Swanzey; Tamworth; Temple; Thornton; Tuftonborough; Unity; Wakefield; Walpole; Warner; Warren; Washington; Weare; Wentworth; Westmoreland; Whitefield; Wilton; Winchester; Windham; Windsor; Wolfeborough. *Appendix:* Letter from Sebastian Rallé, 1716; Letter from Gov. Belcher concerning line between New Hampshire and Massachusetts, 1733; Letter from Gov. Francis Bernard concerning the same; Dover militia officers, 1731–32; Soldiers order, 1775; Piermont drafted men, 1777; Lloyd's Hills; Documents relating to Vermont controversy: Proceedings of a Committee meet-

ing, at Lebanon, Feb. 13, 1777; at Hanover, June 11, 1777; — Report of committee of the Legislature on the foregoing, Nov. 19, 1777; Statement relative to Gen. Sullivan's position in regard to the New Hampshire grants; Census of New Hampshire in detail, 1790.

The State of New Hampshire. Rolls of the Soldiers in the Revolutionary War, 1775, to May, 1777: with an Appendix, embracing Diaries of Lieut. Jonathan Burton.

Vol. XIV. Vol. I. of War Rolls. Concord, 1885. xiii, (3), 799 pp.

Contents. French and Indian War rolls; Revolutionary War rolls; *Appendix:* Diary of Lieutenant Jonathan Burton [at Winter Hill, Dec., 1775 — Jan. 26, 1776]; Diary of Lieutenant Jonathan Burton, while in the Canada Expedition, from Aug. 1, 1776, to Nov. 29, 1776. The following are the principal regimental rolls printed in this volume: New Hampshire men at Bunker Hill; Col. Stark's regiment, pay-rolls, Aug., 1775; Col. James Reed's regiment; Col. Enoch Poor's regiment; Col. Timothy Bedel's regiment, muster-rolls, 1775; Col. John Stark's regiment, receipts, Oct., 1775; Col. Enoch Poor's regiment, receipts, Oct., 1775; Col. James Reed's regiment, receipts, Oct., 1775; N. H. men in Quebec expedition; Roll of troops engaged in the defence of Piscataqua harbor; N. H. men at Winter Hill, Dec., 1775; Col. Bedel's regiment, pay rolls, 1776; Col. Isaac Wyman's regiment, July, 1776; Col. Joshua Wingate's regiment, July, 1776; Col. Pierse Long's regiment, Aug., 1776; Col. Thomas Tash's regiment, Sept., 1776; Col. Nahum Baldwin's regiment, Sept., 1776; Col. David Gilman's regiment, Dec., 1776; Col. Pierse Long's regiment pay rolls, Jan., 1777; Col. Pierse Long's regiment as paid for their march to Ticonderoga, Feb., 1777. First N. H. Continental Regiment, 1777, pay-rolls.

Vol. XV. Vol. II. of War Rolls. May, 1777, to 1780, with an Appendix, embracing names of New Hampshire men in Massachusetts regiments. Concord, 1886. xiv, (2), 847 pp.

Contents. Revolutionary War rolls; Ticonderoga Expedition; Bennington troops, 1777; Continental regiments, 1778–79; Rhode Island campaign, 1778; Piscataqua harbor troops, 1779; *Appendix:* New Hampshire Men in the service in Massachusetts Regiments.

The State of New Hampshire. Rolls and Documents relating to Soldiers in the Revolutionary War, with an Appendix, embracing some Indian and French War Rolls.

Vol. XVI. Vol. III. of the War Rolls. Manchester, 1887. x, (2), 1021 pp.

Contents. Revolutionary War rolls: 1780, 1781; Continental Army regiments; Town accounts for bounties, etc., paid to Revolutionary Soldiers; *Appendix:* Indian and French War rolls (relating to scouting parties during the Indian troubles and Soldiers in the French wars); List of New York Tories' lodgings; Diary of Lieutenant Abraham Fitts, of Candia, N. H. Sept. 27, 1777 — Nov. 1, 1777.

The State of New Hampshire. Part I. Rolls and Documents relating to Soldiers in the Revolutionary War. Part II. Miscellaneous Provincial Papers, from 1629 to 1725.

Vol. XVII. Vol. IV. of the War Rolls. Manchester, 1889. xxiv, (2), 819 pp.

NOTE. — *Part I. contains:* Miscellaneous Rolls and Documents copied in part from the originals in the Pension Department at Washington and in part from the archives of the State. The Documents consist of Town Rolls, Company Rolls, Soldiers' petitions, Bounty statements, etc., from 1774 to 1781.

Part II. contains: Transcripts from ancient Documents in the English archives in London, copied under the supervision and at the expense of the late John Scribner Jenness, of Portsmouth, of which some of the more important are the following: Grant of the Province of Laconia to Sr Ferdinando Gorges and Capt. J. Mason, 1629; Grant and confirmation of Pescataway to Sr F. Gorges and Capt. John Mason, 1631; A Relation concerning the estate of New England, 1636; The Dover Combination, 1640; Petition of the inhabitants of Portsmouth and Strawberry Bank, 1665; Title of Robert Mason to New Hampshire, 1674; Petition of inhabitants of Dover, 1677; Portsmouth petition, 1677; Hampton petition, 1677; Petition from Mason and Gorges, 1677; An Account from the agents of Boston concerning their northern bounds, 1678; Title of Robert Mason to New Hampshire, statement in support of Title, and complaints of Massachusetts encroachments; Secretary Chamberlain to Lords of Trade and Plantations, 1681, relative to New Hampshire affairs; Petition of Robert Mason against the Council of New Hampshire, 1681; Proceedings in Council, Sept., 1681, Oct., 1682; New Seal, Proclamation, Governor and Council sworn; Gov. Cranfield to the Commissioners, description of the Province, Resources, etc., 1682; Gov. Cranfield on Mason's claim, etc.; Papers relative to Massachusetts jurisdiction; Cranfield to Secretary of State, concerning Edward Gove; Copies from miscellaneous Province and State Papers, 1675–1724.

Pages 154–210 *contain:* "Major-General John Sullivan: Proceedings of a Court of Inquiry, including Testimony; Letters and Certificates approving his Conduct in the Staten Island Expedition, and the Battle on the Brandywine, 1777." The volume also contains the Revolutionary military correspondence of Col. Bedel.

The State of New Hampshire. Miscellaneous Provincial and State Papers, 1725–1800.

Vol. XVIII. Manchester, 1890. xxix, (3), 982 pp.

Contents. The multitude of documents in this volume precludes a detailed list of contents, but some of the more important are here enumerated: —

Proceedings of the Council and Assembly, 1728–29; Gov. Jonathan Belcher's Commission as Governor of New Hampshire, 1730; Instructions to Gov. Belcher; Proclamation concerning the King's woods, 1730; Petition of appeal of John Thomlinson, agent for New Hampshire, to the King in regard to the boundary between Massachusetts and New Hampshire, 1737 (?); Answer of Richard Waldron to the foregoing; Documents relative to the Province Seal and its use, 1738, 1739; Instructions to privateers in war with Spain, 1739, 1740; Atkinson and Thomlinson correspondence; Report of Board of Trade on New Hampshire acts, on Bills of Credit, etc., 1743; List of the men who hired the "£25,000 Loan," 1743; Gov. Wentworth to Board

of Trade, 1744 [on encroachments of Massachusetts, Land grants, Boundary, etc.]; Message, House to the Governor on the Fort Dummer controversy, 1745; Louisbourg expedition, petitions of soldiers, etc., 1745, 1746; Papers on Crown Point expedition, 1747; Correspondence between Governors Shirley and Wentworth; Plan of Fort Dummer; Trade between New Hampshire and West Indies, 1751; Gov. Wentworth to Board of Trade, giving an account of the boundaries and situation of the Province of New Hampshire, 1750, 1751 (Massachusetts and New York Controversies, etc.); Instructions to Gov. Wentworth, 1761; List of deserters from ships in Boston Harbor, 1770; Memorial of Peter Livius, with charges against Gov. Wentworth; Justices in New Hampshire, 1776; Petition from Slaves, 1779; States' quotas for Indian warfare, 1786; Road from Concord to Durham; Papers of Lieut.-Col. Joseph Wait of the Continental army; Documents relating to Portsmouth church affairs, etc., 1676–1716, 1717.

Note. — "This volume completes the publication of the Miscellaneous Provincial and State Papers from 1725 to 1800. These Papers were selected by the Editor from a mass of Papers in the State House in 1880. The volume also contains all the 'Belknap Papers' which were not published in Vols. IV. V. and VI. The Appendix contains some documents furnished by Hon. Horatio L. Wait, of Chicago, relative to his Revolutionary ancestor, Joseph Wait; also Papers furnished by Frank W. Hackett concerning early church affairs, etc., in Portsmouth." *Preface.*

Provincial Papers of New Hampshire, including the Records of the President and Council, January 1, 1679, to December 22, 1680; July 6 to September 8, 1681; November 22, 1681, to August 21, 1682; Records of the Governor and Council, October 4 to October 14, 1682, under the successive Administrations of Cutt, Waldron, and Cranfield: Acts of the Assembly, August Session, 1699; Journals of the House of Representatives, August 7, 1699, to October 4, 1701, and May 9, 1711, to April 30, 1722: Ancient Documents relating to the Controversy over the Boundary Line between New Hampshire and Massachusetts. With historical Notes, a chronological List of Boundary Line Papers, contemporary Maps, and other illustrations.

Vol. XIX. Albert Stillman Batchellor, Editor. Manchester, 1891. 760 pp. Folded plans.

Contents. Journal of the House of Representatives, May 9, 1711, to April 30, 1722; Documents relating to the Boundary line Controversy between New Hampshire and Massachusetts; Richard Hazzen's Journal of the Survey of the Boundary line between Massachusetts and New Hampshire, March 20 to April 6, 1740–1 [*sic*]; Walter Bryent's Journal in running the Boundary between New Hampshire and that part of the Massachusetts Bay called County of York, 1741; The Boundary line Case, copied from a printed volume in the office of the Secretary of State, entitled "New Hampshire and Massachusetts Boundary Cases, 1739"; Chronological List of papers relating to the disputed Boundary line, including all printed in this and preceding Volumes; Proceedings of the President and Council of the Province

of New Hampshire from January 1, 1679 (O. S.), to December 22, 1680; July 6, 1681, to September 8, 1681; November 22, 1681, to August 21, 1682; October 4 to October 14, 1682; Communication of Charles Deane to the Massachusetts Historical Society respecting the Records of the President and Council of New Hampshire for 1679–1680; — Acts and laws passed by the General Court or Assembly of His Majesties Province of New Hampshire in New-England. Boston, printed by B. Green and J. Allen, 1699, reprinted from the original imprint now in the custody of the Historical Society of Pennsylvania; Memoranda concerning the New Hampshire laws of 1699, by George H. Moore, LL.D., N. Y., 1889 (*Reprint*); — Journal of the Assembly [House of Representatives of the Province of New Hampshire] August 7, 1699, to October 4, 1701.

Early State Papers of New Hampshire. Including the Constitution of 1784, Journals of the Senate and House of Representatives, and Records of the President and Council from June, 1784, to June, 1787, with an Appendix containing an Abstract of the Official Records relative to the Formation, Promulgation, Consideration, and Adoption of the Federal Constitution, and illustrative Notes.

Vol. XX. Manchester, 1891. 930 pp.

NOTE. — The Appendix contains Notes on the Convention for the regulation of Commerce, to be holden at Annapolis, on the first Monday in September, 1786, Commissioners for New Hampshire; The Convention of 1787, at Philadelphia; Action of the General Court of New Hampshire in response to the invitation to join in the Convention; The ratification of the Constitution on the part of New Hampshire; Biographical Sketches of three representative Men of the Constitutional period, — Benjamin West, Elisha Payne, and John Langdon; Some account of John Langdon, by John Langdon Elwyn.

Vol. XXI. Including the Journals of the Senate and House of Representatives and Records of the President and Council, from June, 1787, to June, 1790, with an Appendix containing Biographical Sketches of men who sustained important Relations to the State Government during that Period, taken from the manuscript Biographies of Governor William Plumer; also Correspondence and Acts of the Legislature pertaining to the Federal Constitution and the Relation of New Hampshire to the Federal Government. Concord, 1892. vi, (2), 930 pp.

NOTE. — "The student of constitutional history will find in these pages the official account of the Proceedings of the General Court touching the election of delegates, provision for a convention to consider the proposed Federal Constitution, and the assumption of the various privileges and duties of Statehood. . . . The currency, the public debt, inter-state affairs, the revision of the laws, the ever-present Masonian controversy, and the spirit of rebellion which was rife in 1787, were among the subjects of administration and legislation which demanded the highest order of statesmanship, and which give the official narrative a peculiar interest and value." *Preface.*

The "biographical sketches of several persons participating in the Government of New Hampshire in the period from 1784 to 1793, copied from the manuscript of William

Plumer, by permission of the New Hampshire Historical Society," are of Joseph Badger, Benjamin Bellows, Jonathan Blanchard, Joshua Brackett, John Calfe, Joseph Cilley, John Dudley, Abiel Foster, Jonathan Freeman, William Gardner, Joseph Gilman, Nicholas Gilman, John Langdon, Woodbury Langdon, Samuel Livermore, John Sullivan, Meshech Weare, and Paine Wingate.

Vol. XXII. Including the Journals of the Senate and House of Representatives and Records of the President and Council, from June, 1790, to June, 1793, with an Appendix, containing the Journal of the Senate at the Impeachment of Woodbury Langdon, the Records of the New Hampshire Society of the Cincinnati, and Biographical Sketches of Men who sustained important Relations to the State Government during the Period covered by those Records and Journals, taken from the manuscript Biographies of Governor William Plumer. Concord, 1893. vi, (2), 923 pp.

Note. — The most important legislation of the period covered by this volume, was probably that of the adoption of the Constitutional Amendments which went into effect in 1793.

Vol. XXIII. **State of New Hampshire.** A list of Documents in the Public Record Office in London, England, relating to the Province of New Hampshire. Chronologically arranged according to the Order of Record in the several Series designated as Colonial Papers, Miscellaneous Correspondence, Colonial Entry Books, Board of Trade Journal, Board of Trade New England, Board of Trade New Hampshire, Board of Trade Plantations General, Board of Trade Proprietaries, Board of Trade Papers, and America and West Indies. With Notes and Indexes. Manchester, 1893. 557 pp.

Note. — "The calendar of documents in the English Archives, relating to New Hampshire, which follows, is the work of Mr. B. F. Stevens, of London, England." *Preface.*

Vol. XXIV. Town Charters. Including Grants of Territory within the present limits of New Hampshire, made by the Government of Massachusetts, and a Portion of the Grants and Charters issued by the Government of New Hampshire; with an Appendix, consisting of Papers relating to the Granting of the various Lines and Bodies of Towns, with Acts in regard to Town Bounds in general, and many Documents produced by Disputes between Towns concerning their Boundary Lines, with illustrative Maps and Plans, and complete Indexes. Town Charters, Volume I. Concord, 1894. xvi, (2), 971 pp. 16 sheets of plans. 7 folded Maps.

RHODE ISLAND.

Records of the Colony of Rhode Island and Providence Plantations, in New England.

Printed by order of the Legislature. Transcribed and edited by John Russell Bartlett, Secretary of State.

Vol. I. 1636 to 1663. Providence, 1856. 549 pp. 8vo.

Contents. Records of the settlements at Providence, Portsmouth, Newport and Warwick, from their commencement to their union under the colony charter, 1636 to 1647; Records of the Colony of Rhode Island, and Providence Plantations, under the first Charter, 1647 to 1663.

NOTE. — "The records of the city of Providence previous to the organization of the government in 1647, are very meagre. It is supposed they were kept in greater detail and were destroyed in the year 1676, when the town was burned by the Indians, as those that remain bear traces of fire and water. To make up for the want of a journal of events, such documents as would elucidate the history of the period have been used. These are the Indian deeds connected with Providence, with a variety of other documents of a historical nature, or connected with the purchase of the Indian lands, their transfer from Roger Williams to his associates, the first allotments of lands to the early settlers, &c. In selecting the materials for this volume, the Indian deeds of each of the four towns, and the town records to 1647, have been used. From that period, the official journals of the proceedings of the General Assembly have been followed to the close of the volume." *Preface.*

Vol. II. 1664 to 1677. Providence, 1857. iv, 609 pp.

NOTE. — "The second volume . . . commences with the adoption of the charter of Charles the Second, and the organization of the government under the same, in March, 1663–1664, and extends to the close of the year 1677, thereby including fourteen years of the Colonial annals. The Records of the proceedings of the General Assembly are printed verbatim from the original manuscript copy in the Archives of the State. In addition to these, there are inserted in their proper places, the records of the 'Proceedings of the Governor and Council.' . . . Two important events in the history of the Colony took place during the period included in this volume. These are the dispute with the Colony of Connecticut for the jurisdiction of the Narragansett country, . . . and King Philip's War." *Preface.*

Vol. III. 1678 to 1706. Providence, 1858. vii, (1), 595 pp.

NOTE. — "The events of this period are among the most important in our Colonial History. They include, first, a discussion of the several claims for the ownership of Mount Hope and the Narragansett country. . . . The subversion of the charter government, and the administration of Sir Edmund Andros, render the year 1686 an important era in our Colonial history. The Colony was now merged into the government of New England, under that Royal Governor, and degenerated into a mere county. No meetings of the General Assembly took place under his government, and the only records that in any way show what was done in the Colony during this period are those of the Courts of Quarter Sessions. These though meagre have been introduced into this volume. Documents illustrating the Andros period are printed from the John Carter Brown collection, from the 'Usurpation papers' in the collections of the Massachusetts

Historical Society, etc." The Colonial Records, beginning with the assumption of the Charter in February, 1690, after the fall of Andros, are now followed to the year 1706." Documents regarding the Earl of Bellomont's inquiry into certain imputed irregularities of the government of Rhode Island, with explanatory papers, are mainly drawn from John Carter Brown's collection. "The concluding documents in the volume appertain to the history of the privateers and pirates which infested our waters."

Vol. IV. 1707 to 1740. Providence, 1859. iv, 622 pp.

NOTE. — *Contains* Proceedings of the General Assembly, 1707–1740. The Public Laws are generally omitted. Acts for the division of towns, their boundaries and organizations, and those relating to provisions for the defence of the colonies, have been included.

Vol. V. 1741 to 1756. Providence, 1860. iv, 594 pp.

NOTE. — This volume is largely devoted to the part taken by Rhode Island in the French and Spanish wars, the expeditions against Louisbourg, Cape Breton, Crown Point, Ticonderoga, Oswego, Quebec, etc. Documents relative to the currency, bills of credit, form a considerable part of the volume.

Vol. VI. 1757 to 1769. Providence, 1861. iv, 629 pp.

NOTE. — *Comprises* documents on the French and Indian war, the campaigns against Canada, Fort William Henry, Ticonderoga, Oswego, Niagara, etc., papers on the Convention of American colonies at New York, in 1765, and proceedings relative to the Stamp Act. Stephen Hopkins's "The Rights of the Colonies examined," 1764, is printed in full.

Vol. VII. 1770 to 1776. Providence, 1862. iv, 643 pp.

NOTE. — Pages 55–192 contain "A History of the destruction of His Britannic Majesty's Schooner Gaspee, in Narragansett Bay, on the 10th of June, 1772; accompanied with the Correspondence connected therewith, the action of the General Assembly of the Colony of Rhode Island thereon, and the official journal of the proceedings of the Commission of inquiry." Comprises illustrative documents on the Revolution and preceding events in Rhode Island.

Vol. VIII. 1776 to 1779. Providence, 1863. iv, 661 pp. Portraits.

NOTE. — In addition to the Proceedings of the Assembly during the Revolutionary period, there is included a mass of correspondence, embracing letters of Washington, Greene, and Sullivan.

Vol. IX. 1780 to 1783. Providence, 1864. (4), 763 pp. Portrait.

NOTE. — The records in this volume are principally concerned with war measures, the raising of troops, furnishing supplies for the army, etc., with Correspondence of Revolutionary generals, members of Congress, etc.

Vol. X. 1784 to 1792. Providence, 1865. (4), 527 pp.

NOTE. — The adoption of the Constitution of the United States was the principal event of the period covered. The State held aloof from ratifying the Constitution until 1792.

VERMONT.

Records of the Council of Safety and Governor and Council of the State of Vermont, to which are prefixed the Records of the General Conventions from July, 1775, to December, 1777.

Edited and published by Authority of the State, by E. P. Walton. Vol. I. Montpelier, 1873. viii, 556 pp. Portrait. 8vo.

Contents. General conventions in the New Hampshire grants, for the independence, organization, and defence of the State of Vermont, July, 1775, to December, 1777: Convention at Dorset, July 26, 1775, Jan. 16, 1776, July 24, 1776, Sept. 25, 1776; at Westminster, Oct. 30, 1776; Jan. 15, 1777; at Windsor, June 4, 1777, July 2, 1777, Dec. 24, 1777; The first Constitution of the State of Vermont: Introduction, Amendments of 1786, 1793–1870, with notes; Origin of the Constitution and comparison with the Frame of government granted by Charles the Second to William Penn; Copy of the first Constitution; Council of Safety of the State of Vermont, July 8, 1777, to March 12, 1778: Introduction; The powers of the Council; Members of the Council; Proceedings of the Council of Safety, July 8, 1777, to Mar. 12, 1778; Record of the Governor and Council, March 12, 1778, to August 23, 1779, with biographical notices; The Governor and Council as a Board of War, March 11–July 11, 1779. — *Appendix:* Proceedings of the "Congress" and "Committee of Safety" for Cumberland county, June, 1774, to Sept., 1777; Gloucester county committee of Safety; — "Some miscellaneous Remarks, and Short Arguments, on a Small Pamphlet, dated in the Convention of the Representatives of the State of New-York, October 2, 1776, and sent from said Convention to the County of Cumberland, and some Reasons given, why the District of *New Hampshire Grants* had best be a State. By Ira Allen. Hartford, printed by Ebenezer Watson, near the Great Bridge, M.DCCLXXVII." (*Reprint.*) — Manifesto prepared and published by order of the Westminster Convention, October 30, 1776; Dr. Thomas Young to the Inhabitants of Vermont, 1777 [relative to recognition by the Continental Congress, and action of the Congress thereon]; Remarks on Article Three of the Declaration of Rights, by Daniel Chipman; The name "Vermont"; The union of New Hampshire towns with Vermont, in 1778–9; Proclamation of pardon issued by Governor Chittenden, June 3, 1779; — A Vindication of the Opposition of the Inhabitants of Vermont to the Government of New-York, and of their Right to form an Independent State. Humbly submitted to the impartial WORLD. By Ethan Allen. Printed by Alden Spooner, 1779, Printer to the State of Vermont. (From the only copy of the original pamphlet in the State Library.) — Documents on the enforcement of the authority of Vermont in Cumberland County in May, 1779.

Additions and Corrections.

Records of the Governor and Council of the State of Vermont.

Vol. II. Montpelier, 1874. viii, 528 pp. Portraits. Plate: View of Catamount-tavern.

Contents. Records of the Governor and Council, Oct., 1779, to August 29, 1782; Records of the Board of War; The first Vermont Council Chamber in the old Catamount Tavern at Bennington, by Hiland Hall; Resolutions of Congress in September and October, 1779, and action of Vermont thereon: Memorial of a Convention held at Lebanon, N. H., July 27, 1779, by a Committee of the Convention; The Claim of Massachusetts to part of Vermont. Vermont's Appeal to the candid and impartial World. Containing a fair Stating of the Claims of Massachusetts-Bay, New-Hampshire, and New-York. The Right the State of Vermont has to Independence — With an Address to the Honorable American Congress, and the Inhabitants of the thirteen United States. By Stephen R. Bradley, A.M., Hartford: Printed by Hudson & Goodwin [1779]; — A Concise Refutation of the Claims of New-Hampshire and Massachusetts-Bay to the territory of Vermont; with occasional Remarks on the long disputed Claim of New-York to the same. Written by Ethan Allen and Jonas Fay, Esq^rs. Published by order of the Governor & Council of Vermont. Hartford: printed by Hudson & Goodwin [1780]; — Mission of Ira Allen to New Jersey, Pennsylvania, Delaware, and Maryland; Action of Congress in reference to Vermont, from Feb. 7 to Oct. 6, 1780, and legislative Proceedings and Documents connected therewith: Representation of inhabitants of Hartford, Norwich, Sharon, Royalton, Fairlee, Newbury, and Barnet, presented to Congress in August, 1779, and again Feb. 8, 1780; Petition of the principle inhabitants on Connecticut river on both sides and northward of Charleston, met in a convention at Dresden on the New Hampshire Grants, August 30th, 1780; Proposals of Vermont for a permanent Alliance and Confederation with adjoining states; The Second Union of New-Hampshire Towns with Vermont, and union with part of New York, in 1781: Proceedings at a Convention of delegates from the several towns in the county of Cheshire, in the State of New-Hampshire, held at Walpole Nov. 15, 16, 1780; Journal of convention of delegates from forty-three towns on the New Hampshire grants, held at Charlestown, Jan. 16, 1781; Secret history of the Charlestown convention, by Ira Allen; Joint action of the Charlestown and Cornish Convention and the General Assembly of Vermont, Feb., 1781, resulting in the Second Eastern Union; Proposal of Vermont to settle the boundary question with New York, Feb., 1781; Proceedings of Congress relating to Vermont, July 19 to Aug. 20, 1781; Vermont delegates to Committee of Congress, Aug. 18, 1781, with questions of the Committee and answers of the Delegates, and an account of the interview, by Ira Allen; Proceedings of the General Assembly of Vermont, Oct. 16–19, 1781; Force against Vermont attempted by New York and contemplated by New Hampshire, 1781–2; Collisions in the Western district, Oct. and Dec., 1781; Collisions in the Eastern district, Nov., 1781, to Feb., 1782; Account of the Second Eastern Union, by Jeremy Belknap; Ira Allen's account of the col-

lisions in the Eastern and Western districts, 1781–2; Correspondence of Gov. Chittenden and General Washington on Vermont affairs, Nov., 1781, and Jan. 1, 1782; —

The Present State of the Controversy between the States of New-York and New-Hampshire on the one part, and the State of Vermont on the other. Hartford, printed by Hudson & Goodwin, M.DCC.LXXXII. — "The original draft of this pamphlet was printed, from the manuscript *Ethan Allen Papers*, in the second volume of *Vt. Hist. Soc. Collections*, pp. 231-239. The argument was re-written and enlarged for the press. Though the committee consisted of five, the authorship is doubtless to be assigned to Ethan Allen." *Editor.*

Dissolution of the Eastern and Western Unions, February, 1782; Observations relating to the influence of Vermont, and the territorial claims, on the politics of Congress, by James Madison; The Haldimand correspondence, 1779–1783 [concerning the efforts of General Frederick Haldimand to negotiate with Vermont for a treaty of peace with Great Britain]; Protest of adherents to New York against Vermont in 1778, and origin of the Charlestown Convention of Jan. 16, 1781; — Covenant, compact, and resolutions adopted by a Convention of the Representatives of the Settlers on the New Hampshire grants west of the Green Mountains — in 1775; — The Proceedings of the Convention of the New Hampshire Settlers; containing the Covenant, Compact, and Resolutions: and also Twelve Acts of Outlawry. Passed by the Legislature of the Province of New York against those Settlers, and their answer to the same. Hartford: Printed by Ebenezer Watson. 1775. (*Reprint.*)

Additions and corrections of Vols. I. and II.

Vol. III. Montpelier, 1875. viii, 540 pp. Portrait.

Contents. Records of the Governor and Council, Oct., 1782, to Jan. 27, 1791. *Appendix:* Resolutions of Congress hostile to Vermont, Dec. 5, 1782, and related documents; Renewed application of Vermont for admission into the Union and documents thereon: Resolutions and address to Congress; Proposed partition of Vermont between New Hampshire and New York; Insurrection in Windham county, and its bearing on the Vermont question in Congress, Oct., 1783, to Oct., 1784; Obstacles in Congress to the recognition of Vermont, 1785–6; Conflicting Titles to Land, and measures of relief; The Betterments acts, 1781–1785; Vermont at the period of Shays's Rebellion, 1784 to 1787: Public discontent-meeting in the town of Wells; Meeting of malcontents in Rutland county; Insurrections in Windsor and Rutland counties; Aid to Massachusetts in Shays's Rebellion; Vermont acts of sovereignty: Bills of credit in 1781; Coinage of copper money; Naturalization acts in 1785 and 1787; Post-office department established; Negotiations on Commerce between Vermont and foreign Countries; Negotiations for a ship canal from Lake Champlain to St. Lawrence river. — Settlement of the controversy with New York; The Vermont convention of 1791; Proceedings and Debates of the Convention for adopting the Constitution of the United States: Celebration of the adoption of the Constitution at Rut-

land, March 8, 1791; — Admission of Vermont into the Union; Papers of Charles Phelps, of Marlborough, on the controversy with New York, &c., 1770 to 1777.

Additions and corrections to Vols. I., II., and III.

Vol. IV. Montpelier, 1876. iv, 554 pp. Portrait.

Contents. Records of the Governor and Council, Oct., 1791, to Oct., 1804; Vermont in 1791, as viewed by a Virginian; No Slaves in Vermont in 1791; Amendments to the Constitution of the United States; Letters of public officers of Vermont, 1791 to 1802; Internal improvements, on land and water: Champlain canal, and navigation of Connecticut river; — Surveillance of the northern frontier by British troops, 1783 to 1796: Organization of the town of Alburgh; Interference at Alburgh of British officers in 1792; Vermont charged with endangering the peace of the country; Withdrawal of the British troops. — Military contributions of Vermont for the military Service of the United States, 1792 to 1800: The Vermont company in General Wayne's war against the Northwestern Indians, 1792–95; The minute-men of 1794, 1797–8, Vermonters in the 16th Regiment, U. S. army in 1798–9; — Extradition of fugitives from justice, 1796–99; Addresses of the Legislature of Vermont to the President of the United States, and answers thereto, 1796–1803; Obituary notices of Gov. Thomas Chittenden and Doct. Jonathan Arnold; Governor's speeches to the legislature, 1797–1803; Replies of Vermont to the Kentucky and Virginia Resolutions of 1798; Last Speech of Gov. Thomas Chittenden.

Vol. V. Montpelier, 1877. iv, 569 pp. Portrait. Plates.

Contents. Record of the Governor and Council, Oct. 1804 to Oct. 1813; *Appendix:* Governor's Speeches to the General Assembly, 1804 to 1812; Proposed Amendments to the Federal Constitution; State-Capitals and State-houses of Vermont: Rutland and Windsor State Capitals from 1791 until 1797; Montpelier the State Capital subsequent to 1807; The first State-House at Montpelier, 1808 to 1835; The second State-House at Montpelier, 1836 to 1857; The third State-House at Montpelier, from Oct. 13, 1859; — The Vermont State Bank, 1806; Northern boundary line of Vermont; Addresses of the Legislature of Vermont to the President of the United States, and Replies, 1806–1812; The State-Prison; British intrigue in New England, 1809: The Embargo in Vermont, and the Craig-Henry correspondence, 1808–1812; Domestic manufactures in Vermont, 1809; — Correspondence between Gov. Tichenor of Vermont and Gov. Craig of Canada, 1809: On the Suppression of Counterfeiting in Canada; — Origin and causes of the union of New Hampshire towns with Vermont in 1778 and 1781: An Address of the Inhabitants of the Towns of Plainfield, Lebanon, Enfield, (alias Relhan), Canaan, Cardigan, Hanover, Lime, Orford, Haverhill, Bath, and Landaff, to the Inhabitants of the several Towns in the Colony of New-Hampshire. Norwich: Printed by John Trumbull M.DCC,LXXVI. (*Reprint*); — Observations on the right of jurisdiction claimed by the States of New York and New Hampshire, over the New Hampshire grants (so

called) lying on both sides of *Connecticut-River*. Danvers: Printed by E. Russell, MDCCLXXVIII. Signed "Republican" (*Reprint*); — An Address to the Inhabitants of the New Hampshire grants (so called) lying westward of Connecticut river [By Timothy Walker], 1778 (*Reprint*); — A Public Defence of *the right* of the New-Hampshire Grants (so called) on both Sides Connecticut-River, to associate together, and form themselves into an Independent State. Dresden: printed by Alden Spooner, 1779 (*Reprint*); — Letter from Ira Allen to Meshech Weare, 1778; Address to the Inhabitants of the State of Vermont, by Ira Allen, Nov. 27, 1778; Brig. Gen. Wooster to Col. Warner, Jan. 6, 1776.

Vol. VI. Montpelier, 1878. iv, 574 pp. Portraits.

Contents. Records of the Governor and Council, Oct. 1813 to Oct. 1822; Governor's Speeches to the General Assembly, 1813 to 1821 (Chittenden, Galusha, Skinner); Boundary line between New York and Vermont, from the South-West corner of Vermont to Poultney river; Proposed Amendments to the Constitution of the United States; Vermont opposed to the Hartford Convention; Vermont in the War of 1812: Detached Militia; Volunteer force; Action of the Legislatures of 1812 and 1813; The Vermont Regiments in the U. S. army, 1812–1815 (lists of officers); Capture of the U. S. Sloops Growler and Eagle; A British plundering expedition to Plattsburgh, Swanton, and other towns; British demonstration against Burlington, Aug. 2, 1813; Campaign against Montreal, Oct. and Nov. 1813; Campaign of 1814 on the Niagara frontier; Capture of Fort Erie; Battle of Chippewa plain; Battle at Lundy's Lane, July 25, 1814; Battle of Fort Erie, Aug. 25, 1814; Land and Naval battles at Plattsburgh. — Vermont on Slavery and the Missouri question, 1819 and 1820; Rights of the respective States in the public Lands of the United States.

Vol. VII. Montpelier, 1879. iv, 527 pp. Portraits.

Contents. Records of the Governor and Council, Oct. 1822 to Oct. 1831; Governor's Speeches to the General Assembly, 1822 to 1830 (Skinner, Van Ness, Butler, Crafts); Proposed amendments to the Federal Constitution; Internal improvements in Vermont, 1823–1845: Surveys for Canals in Vermont; The Introduction of Railroads into Vermont; Visit of Lafayette to Vermont, 1825.

Vol. VIII. Montpelier, 1880. iv, 517 pp. Folded Map. Portraits.

Contents. Record of the Governor and Council, Oct. 1831 to Oct. 1836; Governor's Speeches to the General Assembly, 1831 to 1834 (Gov. Palmer); Boundary line between Vermont and New Hampshire, Report, 1792; Tenure of the Executive office, 1832; Resolutions on Topics of national Policy, 1831–1834; Report on the erection of the Second State House in Montpelier; Judges of the Supreme Court arraigned, and vindicated, 1833; Biographical and Historical: Abel Curtis, Col. John Williams, Gen. William Barton; Hon. Timothy Stanley; — Claim of the Cognawaga Indians to land in Vermont; Additional historical Documents on Gov. Benning Wentworth's Grants of land in Vermont, with list of Townships granted [New York

claims to Vermont lands]; Order of the Gov^rs^ of the N. Y. [King's] College for the settlement of Kingsland, now Washington, Vt., 1772; Capture of Ticonderoga and Crown Point, 1775; Convention at Dorset, Sept. 21, 1775; Remonstrance against Congress authorizing Cols. Allen and Warner to raise Troops independent of New York, — probably 1776; Meeting of the Council of Safety of Cumberland county, Sept. 3, 1777; Scheme of 1779 to unite all the New Hampshire grants with New Hampshire; Second Union of Towns east of Connecticut river with Vermont; Some old maps touching Vermont; A chorographical map of the northern department of North America embracing Vermont, published about 1779; Tour of President Monroe in Vermont in 1817; Alphabetical list of Governors and Lieutenant Governors, March 13, 1778, to October, 1836; Members of the Council of Safety and Council, 1777 to 1836; Secretaries to the Governor and Council, 1778 to 1836.

Index to biographical and personal notices, Vols. I. to VIII.; Chronological Index to historical documents, notes and references; List of Portraits and other engravings, Vols. I. to VIII.

The Rev. Edward G. Porter addressed the Society in further explanation of the events which occurred between Lexington Green and Concord Bridge on the night of the eighteenth of April, 1775, and on the following day. The valuable details furnished by the speaker were listened to with great attention.

The Rev. Dr. Joseph H. Allen followed Mr. Porter with a relation of some interesting traditions transmitted in his own family bearing upon the same events.

ANNUAL MEETING, NOVEMBER, 1895.

THE ANNUAL MEETING was held at the Exchange Club, corner of Milk and Batterymarch Streets, Boston, on Thursday, 21 November, 1895, at half-past five o'clock in the afternoon, the President, Dr. BENJAMIN APTHORP GOULD, in the chair.

The Records of the last Stated Meeting were read and approved.

The Annual Report of the Council was presented and read by Mr. ANDREW MCFARLAND DAVIS.

REPORT OF THE COUNCIL.

The Stated Meetings of the Society, since the Annual Meeting in November last, have all been held at the Hall of the American Academy of Arts and Sciences. For the courtesy which has thus liberally been extended to us, our grateful acknowledgments are due. The attendance at our meetings was fair, and the proceedings were made interesting by the presentation of a number of papers which were devoted to the exposition of a great variety of historical topics. All these papers were referred to the Committee of Publication, and all are now in type.

The death of Leverett Saltonstall was announced at the April meeting of the Society. As was natural in the case of so conspicuous a man, who counted amongst us so many admirers and friends, this announcement called forth a number of spontaneous expressions of the esteem in which he was held. The selection of Judge Lowell to prepare a Memoir of Mr. Salstonstall seemed in every way fitting and appropriate, and his acceptance of this friendly office was the cause of genuine satisfaction to the Society.

Two deaths occurred among our members, in the interim between the April Meeting and the present assembling of the Society. There are few of us who did not watch the career of the

son of our War Governor when he was called into public life, with full conviction that his freedom from the restraint of partisan shackles would enable him to strike telling blows in behalf of the whole people. The vigor with which he entered upon the performance of his duties in Congress, and the manly attitude which he assumed, showed that we had counted aright; but, alas! the feeble body in which the spirit of John Forrester Andrew was lodged, was inadequate to support the strain which it was called upon to bear. His usefulness as a public officer was very soon impaired through his physical disability to perform the work which was imposed upon him. His friends hoped, however, that rest would restore his strength, and that he might still have many years of activity before him; but his sudden demise cut short a career from which they had every reason to expect so much. To his friend Edmund March Wheelwright, the loving task has been assigned of preparing a sketch of his life.

The fact that the greater part of the active life of James Walker Austin was spent in Honolulu, where he held high official position, probably cut him off from the close touch with his contemporaries in this Society which he would have had if he had devoted himself to the practice of his profession in this Commonwealth. After his return to this country, Judge Austin confined himself to office work; and it was only those who were admitted to the privilege of his friendship who could appreciate the worth of his character, the charm of his conversation, and the extent of his cultivation. A memorial account of his career may be expected at an early day.

We have reason to congratulate ourselves that we had secured the autographs of each of these gentlemen, that we have photographs of Mr. Andrew and of Judge Austin, and that a friend has undertaken to provide a likeness of Mr. Saltonstall for our Album. While we have cause to rejoice that we have these mementoes of our deceased friends, it is unfortunately the case that there are some of our members who have failed to comply with the request sent them for their photographs. Day by day, through the activity of those having the matter in charge, the number of the delinquents has been steadily reduced; and it is to be hoped that we may soon have the opportunity of determining upon whom shall fall the unenviable distinction of being the last to respond to so reasonable a request.

It was stated at the beginning of this Report that all the papers which had been presented at our meetings were in type. It would be a natural question to ask, where then is the first volume of our Publications? No doubt was entertained by those having the matter in charge that it would have been in possession of the members of the Society before this time, but a tantalizing delay in the preparation of the Index has defeated their plans. The volume was closed with the paper read at the December meeting. The last numbered page was the four hundred and fifty-first. It is impossible to say how much space the Index will occupy; but it cannot be doubted that the Introductory Note, the Transactions, and the Index will make a book of about the five hundred pages prescribed by the Council.

At the several meetings, reports of which have been included in the First volume and in the first number of the Third, papers have been presented or communications of importance made by fourteen different members of the Society. Two researches, which we have thought worthy of a place in our Transactions, have been presented to us by gentlemen who are not members. In addition to this, there have been sundry communications on minor topics made by members which are not included in the above enumeration. This analysis of our work discloses a fair percentage of active workers in our membership; but the fact still remains that there are many who can, if they will, help us to make a statement concerning the distribution of our work, when we shall analyze the papers contained in our next volume of Transactions, which will be even more satisfactory.

An examination of the papers included in these Publications will disclose the fact that they cover a wide range in time, and treat of a great diversity of topics. It would, perhaps, be too much to say that a person of constructive imagination, well grounded in the art of critical analysis, could erect a fairly good skeleton of the history of the Colony and Province of the Massachusetts Bay from the details furnished by these papers and the hints given as to what is missing. Nevertheless, a glance at what could be done in this direction will reveal the possibilities herein suggested. There the student would find indicated the great importance attached to the possession of the Charter, and the conversion of the organization of a Trading Company into the Government of a

Colony. The struggles for the retention of the Charter during the *quo warranto* proceedings and its final annulment by *scire facias*, though not given in detail, are alluded to. Many particulars are given concerning the government by Council administered in the days between Colony and Province, and the financial struggles under the Provincial administration are quite fully narrated. The growth and formation of municipal government in the Colony are discussed in the abstract in one paper and specially illustrated elsewhere by an elaboration of the facts connected with the establishment of a single town. The social life of the people is touched upon in the biography of a magistrate and a soldier, while the perils of those who came in contact with the Indians are vividly sketched in an account of a frontier family. The religious controversies of both Colony and Province are treated with great vigor and clearness. He who would seek a definition, by competent authority, of Antinomianism may turn to the pages of our first volume; and there he will also find disclosed the value of the Quakers as propagandists of religious liberty. The curious contribution to the literature connected with the Slavery discussion, which is to be found in the same volume, will be fully appreciated by those who have time to give it careful consideration.

The exercise by the Colonial government of powers which were deemed an infringement of the Royal prerogative in the establishment of a mint, and the doubts which existed whether a similar infringement had not been made in the creation of the Corporation of Harvard College are set forth in detail. The vicissitudes of the College, during the period of the intermediate government between Colony and Province, are fully recorded; and the intervention of the Government in the affairs of the College, thereby reviving the Charter which was supposed to have fallen with that of the Colony, is pointed out. New information concerning the founder of the first scholarship at Harvard College is given, and enough of the pedigree of Lady Mowlson is furnished to show that her family name was Radcliffe. The evolution of the psalmody of the Colonies of Plymouth and the Bay is discussed, and the different sources from which the two systems derived their inspiration are indicated. The history of the records of the General Court and of the Court of Assistants is given, and the various punishments for crimes inflicted by the Courts are mentioned. Information is furnished as to

several individuals of prominence in Colonial or Provincial times, and in our memorial notices we have two sketches of contemporaneous biography which may serve as models. Facts of importance in determining the topography of Boston at different periods are set forth, among which will be noted with especial interest the claim that the site of Governor Winthrop's first Boston house is to be found within the limits of the present Exchange Building on State Street. The discussion of the Election Sermons cannot fail to attract attention. Within the vast mass of literary material which these sermons furnish, addressed as they were to men who were about to assume the management of the affairs of Colony, Province, or State, one might have expected to find allusions to current events which would aid materially in building up the history of the Commonwealth. If patient analysis of these dreary volumes has failed to reveal anything of moment in this connection, we are none the less indebted to the painstaking and industrious examination of their contents which enables us to say that he who is making a topical research will have but little occasion to consult their pages. Far more fruitful is the record of the Bibliography of the Publications of the New England States. Here we have placed before us an account of the contents of each volume, thus enabling us to tell where we shall turn to find the several charters, grants, and rare papers which have been published in these records.

Not only do the papers in our Publications throw occasional glimpses of light upon obscure points of historical interest, but through the contribution of new material we may claim that we have added to the resources of the historian. The commission of La Tour, a document which was deposited in our Archives, is of great interest. The publication of the records of the Bristol Convention of 1774 furnished occasion for an admirable exposition of the motives which led to this method of procedure in the evolution of the Provincial Congress, and the discussion which followed can be read with profit by the student of those times.

The identification by Mr. Goodell of the handwriting of the sketch of the organization for the Cincinnati as that of Samuel Shaw is a matter of considerable importance, and the careful comparison with the original draft by Knox is of great value. The interest which attaches to that crude financial experiment, the

Land Bank of 1740, gives great importance to the copy of the supplementary agreement with the Company, executed by Joseph Weld, and submitted for the consideration of this Society by his descendant, William G. Weld. Those who wish to read the story of this great financial failure, and who care to examine in detail this peculiar document, must turn to the pages of our Publications, for there alone are they to be found.

Volume Two of our Publications, it will be remembered, is devoted to the Commissions and Instructions of the Royal Governors. The first number of Volume Three closes with the Transactions at the April meeting of the current year.

The foregoing brief review of the contents of the papers read before this Society, which are now in type, will, we think, justify the claim set forth at its beginning. The historian, familiar with the period, will note the gaps which exist, and perhaps feel that too much is missing to warrant what was said; but he who deals with movements and motives, who cares not for special events, nor for men, except so far as they are typical and illustrative, will find in this material enough to form a fair estimate of the character of the founders of this Commonwealth, of the motives which governed them, and of the nature of their actions during the most critical periods of our history.

The First volume of our Publications contains an admirable portrait of Judge Samuel Sewall, the gift of our fellow-member, Abner C. Goodell, Jr. It is intended to supplant the totally inadequate picture which accompanied the first number of our first volume. The several illustrations which will be found in the volume are by photographic processes, with the exception of the excellent likeness of Frederick Lothrop Ames. This is from a steel plate which was loaned to the Society.

For various reasons it was deemed desirable that the proceedings at our meetings should be placed in type, and, if possible, submitted to the members for suggestions in the way of revision and correction, in advance of their issue in the shape of a volume. In pursuance of this plan three numbers were distributed. As the fourth and concluding number of the series could only anticipate the volume by a very short period, it was deemed unadvisable to incur the expense of distributing that number. Several errors of minor importance have been noted and corrected in the

plates. A mistake in the date, in the headings of the pages recording the proceedings of one of our meetings, is of sufficient importance to make it desirable that the numbers which contain this error should be recalled. The illustrations contained in all three of the numbers are of value, and can be used in the bound volumes which we propose to issue. For these reasons, the Council voted to furnish each member of the Society with a bound copy of the First volume of the Publications, and to recall the numbers previously issued. The details connected with this proceeding have not yet been arranged. Since the Society has no place of abode, it is evident that the intervention of some agent for the purpose must be secured.

It had been expected by the Council that the distribution of this volume would at once give the Society a standing among our neighbors proportionate to the value of the book. For the present at least, it does not seem possible to attain this result. To secure any proper recognition of the volume it is essential that it should find its way to the shelves of the great Libraries of the country. It would be an easy matter for us to arrange exchanges with a great number of Societies, and thus in part accomplish what we desire in this respect; but we deem it unadvisable to do this, because of our having no place to receive and store them. We have therefore concluded to limit our edition, and to reduce our distribution-list practically to members, and to a few periodicals from which we hope for careful reviews of the book.

Long before the time will arrive for the Council to submit its next Annual Report, we shall be in position to speak authoritatively of the opinion of competent and unprejudiced judges as to our first volume. Should it prove to be as favorable as we hope, we can then urge with greater force the necessity of making provision for the two great wants of the Society, which were dwelt upon in the Report of last year; namely, a Publication Fund, and a place of abode. Meantime, we leave the Treasurer's Report and the facts which we have herein recited to speak for themselves, believing that they will do so quite as effectively as any appeal which the Council might make.

The Treasurer presented to the Society his Annual Report, as follows: —

REPORT OF THE TREASURER.

In compliance with the requirements of Chapter VIII. Article 1, of the By-Laws, the Treasurer submits his Annual Report, made up to 15 November, 1895.

In the two previous Annual Reports of the Treasurer mention was made of the action of the Council in appropriating some part of the free cash in the Treasury to be added to our Permanent Funds. It is a matter of regret that the ever-increasing demands upon our resources for the cost of printing our Transactions and Collections has made it impossible for the Council to make a similar appropriation this year. The Council, however, has ordered that all Admission Fees, as well as all Commutations of the Annual Assessment as they are received, shall be transferred to the General Fund. In consequence of this action and of the apportionment between the two Funds of the interest received during the past twelve months, the Invested Funds of the Society show an actual increase for the year of $516.42.

Included in the item of interest is a bonus received for the discharge of a mortgage upon premises which were damaged by fire, and subsequently improved at an expense which necessitated an increase of the mortgage to an amount which it was imprudent to lend upon the estate. Exclusive of this bonus the average rate of interest on our investments received last year was 5.33 %.

At the close of our financial year it was found that about two hundred dollars would be needed to pay all audited demands against the Society, and to enable the Treasurer to present his Annual Account with a small balance on the right side of it. This fact was quietly made known to a few of our members, who, within a few hours, generously provided for the needs of the Treasury. Some of the letters which accompanied these contributions were not less welcome than the inclosures, since they expressed not only the pleasure which it afforded the writers to contribute to the Funds of the Society, but their cordial interest in its present and future success.

The Funds of the Society are invested as follows: —

$ 500 in a 6% mortgage, payable principal and interest in gold coin, on improved Real Estate in Cambridge;

1000 in a 5% Parti-Mortgage Receipt (No. 149) of the Conveyancers Title Insurance Company, due 16 April, 1899, and payable principal and interest in gold coin, on improved Real Estate in Boston.

51.95 deposited in the Charlestown Five Cents Savings Bank.

The following is an abstract of the Accounts, and a Trial Balance of the books on 15 November, 1895: —

CASH ACCOUNT.

RECEIPTS.

Balance 15 November, 1894		$71.57
Admission Fees	$10.00	
Annual Assessments	910.00	
Commutations of the Annual Assessment from Four Members	400.00	
Interest	131.26	
Mortgage discharged (in consequence of a fire upon the premises)	450.00	
Parti-Mortgage Receipts of the Conveyancers Title Insurance Company, Nos. 14 and 15, for $500 each, at 5%, due 2 August, 1897, sold	1,000.00	
Withdrawn from Charlestown Five Cents Savings Bank	156.50	
Henry H. Edes, temporary loan	65.00	
Contributions from nine members	190.00	3,312.76
		$3,384.33

EXPENDITURES AND INVESTMENTS.

University Press, Printing	$540.47	
Francis P. and C. S. Hathaway, mounting Photographs and Autographs of Members for the Society's Album	54.10	
Clerical Service	55.80	
Hooper, Lewis, and Company, Stationery	26.10	
Miscellaneous incidentals	444.55	
Henry H. Edes, temporary loan, paid	65.00	$1,186.02
Parti-Mortgage Receipts of the Conveyancers Title Insurance Company, Nos. 14 and 15, for $500 each, at 5%, due 3 August, 1897, both principal and interest payable in gold coin	$1,000.00	
Parti-Mortgage Receipt of the Conveyancers Title Insurance Company, No. 149, at 5%, due 16 April, 1899, both principal and interest payable in gold coin	1,000.00	
Interest in adjustment	38.89	
Deposited in Charlestown Five Cents Savings Bank: Admission Fees and Interest belonging to the Permanent Funds	122.92	2,161.81
Balance on deposit in Third National Bank of Boston, 15 November, 1895		36.50
		$3,384.33

TRIAL BALANCE.

DEBITS.

Cash		$36.50
Mortgages	$1,500.00	
Charlestown Five Cents Savings Bank Deposit Book No. 41,613	51.95	1,551.95
		$1,588.45

CREDITS.

Income		$36.50
Publication Fund	$409.36	
General Fund	1,142.59	1,551.95
		$1,588.45

HENRY H. EDES,
Treasurer.

BOSTON, 15 November, 1895.

The Committee appointed to examine the accounts of the Treasurer reported through its Chairman, Mr. NATHANIEL CUSHING NASH, as follows: —

REPORT OF THE AUDITING COMMITTEE.

The undersigned, a Committee appointed to examine the accounts of the Treasurer of The Colonial Society of Massachusetts for the year ending 15 November, 1895, have attended to that duty, and report that they find them correctly kept and properly vouched; and that proper evidence of the investments and of the balance of cash on hand has been shown to us.

NATHANIEL C. NASH,
GARDINER MARTIN LANE,
Committee.

BOSTON, 15 November, 1895.

The several Reports were accepted, and referred to the Committee of Publication.

The Hon. WILLIAM E. RUSSELL, Chairman of the Committee to nominate candidates for Officers for the ensuing year, presented the following list; and, a ballot being taken, these gentlemen were unanimously elected: —

PRESIDENT.

BENJAMIN APTHORP GOULD.

VICE-PRESIDENTS.

JOHN LOWELL.

WILLIAM WATSON GOODWIN.

RECORDING SECRETARY.

HENRY WINCHESTER CUNNINGHAM.

CORRESPONDING SECRETARY.

ANDREW McFARLAND DAVIS.

TREASURER.

HENRY HERBERT EDES.

REGISTRAR.

HENRY ERNEST WOODS.

MEMBER OF THE COUNCIL FOR THREE YEARS.

EDWARD WHEELWRIGHT.

Mr. Henry H. Edes paid the following tribute to the memory of Judge Austin : —

My friendship with Judge Austin was of long standing. He graduated from Harvard College in 1849, in the class with our associates Mr. Brimmer and Mr. Choate. After graduating from the Harvard Law School, he went to the Hawaiian Islands and began the practice of his profession. He rose rapidly in the public esteem, and was soon chosen to places of trust and honor. In rapid succession he was made District Attorney, Member of Parliament, Speaker of the House, and a Justice of the Supreme Court. He was also placed on two important Commissions, — one for revising the Civil Code, the other for revising the Criminal Code of the Kingdom. Later he was appointed guardian of Prince Lunalillo, who subsequently ascended the throne of the Kamehamehas.

Judge Austin returned to Boston in 1872, after a residence abroad of more than twenty years, and devoted himself to the care of trust estates. He was highly esteemed for his many noble qualities.

His rugged honesty of opinion and positive ideas were sometimes veiled by his gentle manner; but they never lacked vigorous expression upon all proper occasions, and he always had the courage of his convictions. Frankness, purity of mind and of heart, loyalty to every duty and to friends, and sincerity were marked traits of his character. His sympathies were as tender and quick as a woman's. Censoriousness had no place in his fine nature; and when he could not approve the actions of others, he cultivated that silence which is golden. He was as generous in his judgments of others as in his gifts to many worthy objects; and in all the relations of life he furnished an example deserving emulation.

Mr. Archibald M. Howe spoke of our late associate, Mr. Andrew, as follows: —

John Forrester Andrew was the son of one of the great men of Massachusetts who held high station, John Albion Andrew.

When Governor Andrew died, his son, then nearly seventeen years of age, must have known something of the daily life of his father and of the loftiness of his ideals.

It is always a disadvantage to be the son of a great man; but young Andrew, though not his father's equal, partook of his spirit. In boyhood and manhood he showed many instances of the same kind of sympathy with and knowledge of men, and the same decision of character. Although literary pursuits did not attract him, he was easily the companion of his scholarly contemporaries, while his good sense and sound judgment grew stronger with each year of his life. He was graduated from Harvard in 1872, and, after travel abroad, pursued the study of law at the Harvard Law School, taking the law degree in 1875. He did not long pursue the active practice of his profession, being more attracted by political action. He was elected to the Massachusetts House of Representatives from Boston, serving in the years 1881, 1882, and 1883.

In 1884 Mr. Andrew became State Senator, and the same year was elected a delegate to the National Republican Convention; but refusing to support its candidate for President, James G. Blaine, he severed his connection with the Republican party. In the autumn of that year he was again elected to the State Senate, but this time by the votes of the Independents and Democrats. Although his

action in leaving one party and joining another was variously criticised, it is clear that his action was wisely taken, and upon grounds which involved the exercise of sound judgment, even though he believed it would end his political career. In 1888, and again in 1890, he was elected to Congress by the Democrats, and during his two terms of service earnestly devoted himself to the cause of sound money and the reform of the civil service and the tariff. In office he was frequently independent in voting and in other legislative acts. His knowledge of men, and his power of persuasion in private conversation, did more than much speech-making could have accomplished to induce his fellow-members to act wisely on current questions. In the midst of the controversy over the free coinage of silver, he more than once left his seat in the House, hastened to New York or elsewhere, and by his clear statement of the situation in Congress secured the attention of leading men, who forthwith exercised their influence to convert their representatives to the cause of sound money, or to compel them to take prompt action.

The cause of Civil Service Reform Mr. Andrew supported urgently as Chairman of the Civil Service Reform Committee on the part of the House, and in many other ways throughout his public career; while as Park Commissioner of Boston, his good taste and judgment were exercised in ways that have already secured for our citizens incalculable benefits.

For nearly twenty years of his life Mr. Andrew gave more time to political and philanthropical causes than is usual for a man who had so much inducement to devote himself to his own pursuits, or to the promotion of his political fortune. Of the men who have been in public office only for a few years, and who have not been pre-eminent by reason of their powers as orators or writers, few have done so much for good causes by their common-sense and knowledge of men as John Forrester Andrew. When he did speak, he said what he believed to be true; and never did he utter words for effect or for ordinary political expediency.

After the adjournment of the meeting, dinner was served. Dr. Gould occupied the chair, and the Rev. Dr. Joseph H. Allen invoked the Divine blessing.

The only guest of the Society was Charles Francis Adams, LL.D., President of the Massachusetts Historical Society.

After dinner, speeches were made by Dr. Gould, Mr. Adams, the Hon. Roger Wolcott, the Hon. George Frederick Williams, and Mr. Francis C. Lowell.

An incident alluded to by Mr. Adams called forth from the Hon. Darwin E. Ware an interesting reminiscence of the Dorchester Celebration of 1855.

During the dinner the health of President Gould was proposed by Mr. Charles Sedgwick Rackemann, and was drunk standing by the gentlemen present.

Vice-President William Watson Goodwin occupied the chair during a part of the evening.

DECEMBER MEETING, 1895.

A STATED MEETING of the Society was held in the Hall of the American Academy of Arts and Sciences on Wednesday, 18 December, 1895, at three o'clock in the afternoon, the PRESIDENT in the chair.

The Records of the Annual Meeting having been read and approved, the CORRESPONDING SECRETARY reported that he had received several letters from Librarians and the officers of Historical Societies in different parts of the country, expressing the wish to subscribe for our Publications.

Mr. ANDREW MCFARLAND DAVIS communicated for the consideration of the Society a copy of an indictment of two negroes, in 1742, for attempting to fight a duel on Boston Common with rapiers. One of the combatants is described as "labourer, servant;" the other as "labourer & servant or slave." The challenge is set forth in the indictment, and the encounter of the combatants; but the event fades out in the assertion that they "did then and there attempt to fight a duel." Mr. Davis stated that while the circumstances connected with this transaction could not be regarded as of much consequence, yet all information which led to an understanding of the life of those days would undoubtedly be welcomed by students of the times.

The Document[1] is as follows: —

SUFFOLK SS. Att his Majesty's Superiour Court of Judicature Court of Assize and General Goal Delivery begun & held at Boston in & for ye County of Suffolke on ye third tuesday of August in ye sixteenth year of ye Reign of our Sovereigne Lord George ye Second of Great Brittain etc King Def^r^ of ye Faith etc Anno q^e^ Domini seventeen hundred and forty two

[1] Suffolk Court Files, vol. ccclvi., no. 55.818.

The Jurors for our s^d^ Sovereigne Lord ye King upon oath present that Cæsar a Negroe of Boston in ye County of Suffolke afores^d^ labourer servant to Saml Miller of said Boston Gunsmith on or about the sixteenth day of March last past att Boston in ye County of Suffolke afores^d^ of his private malice and revenge did then and there challenge and provoke one Tom Negroe of Boston aforesd labourer & servant or slave of Daniel Bell of sd Boston Mason to fight a Duel with him at small sword who then & there accepted ye aforesd challenge and ye sd Tom negroe and Cesar negroe in consequence thereof in ye Comon at Boston aforesd in ye County of Suffolke aforesd Did then and there at ye time last mentioned armed each of them with a Rapier or small sword of their private malice fury & revenge meet each other with force & arms did voluntarily engage in Rencountier with small sword to ye manifest hazard of each of their lives, and did then & there with small sword voluntarily wickedly & maliciously attempt to fight a duel each with ye other and armd as aforesd And so ye said Jurors upon Oath say that ye sd Tom and Cesar negroes with force as aforesd out of malice & their private revenge did challenge accept and attempt to fight a Duel with small sword each with the other to the hazard of their lives, in evil example to others & contrary to ye peace Crowne & dignity of our sd Lord ye King as alsoe to ye Law in ye case made & provided.

J. Overing *Attorn*
℔ *Dño Rege.*

Witnesses
Mr Glover
Phillips Chamberlain
Mr Casno & Mr
Salters Negroes
Mr Barkers Sam
Lives @ Captn Watts.

Billa vera Jos. Green *Foreman*

The two negroes gave bail, and the bonds are to be found in the Suffolk Court Files.[1] Samuel Miller, gunsmith, and Thomas Pemberton, shopkeeper, entered into recognizance for £200 each for Cæsar; while Daniel Bell, bricklayer, and William Young, gentleman, were each held for the same amount for Tom. Mr. Davis stated that he had found no other trace of this case, either in the Files or on the Records of the Courts.

Mr. Henry Dwight Sedgwick read the following paper on —

[1] Suffolk Court Files, vol. ccclvi., no. 55.818.

ROBERT SEDGWICK.

Under many quaint and rugged spellings the cognomen of Sedgwick can be traced in the North of England as far back as 1379. In that year, and thenceforward for centuries, the family seat was in the dale of Dent, a picturesque village in the West Riding of Yorkshire, on the border of Westmoreland. Before the end of the sixteenth century, however, some of the family removed to Wisbech in the Isle of Ely, in Cambridgeshire, where they settled. By this branch, to which Robert Sedgwick appears to have belonged, was adopted the spelling of the family name which is retained to the present time. He was the son of William Sedgwick, a Warden of St. Mary's Church at Woburn, in Bedfordshire, and was born in 1611. As appears by the Registers of the church, he was baptized there 6 May, 1613. His father's marriage to Elizabeth Howe, 10 April, 1604, and burial, 25 July, 1632, are recorded in the same Registers.[1] After some military training and other experiences, of which no details have reached us, but which tended to make of him a sturdy Independent in religion, Sedgwick flung himself, at the age of twenty-four, into that strong Puritan tide which was then setting to the congenial rocks of the New England shore.

On his arrival, in 1636, he was admitted (3 June) an Inhabitant of Charlestown, Massachusetts, then vigorously emulating the enterprise of its important neighbor Boston, and there he established himself as a merchant. Of the surname and previous history of his wife Johanna there is no known record. On the ninth of March, 1636–37, he was made a Freeman of the Colony, and chosen Captain for Charlestown. In the same year, and also in the years 1638–1644, 1648 and 1649, he was chosen a Deputy to the General Court. In 1643 he was one of the Selectmen of Charlestown, and throughout his residence in the town was influential in its affairs, and active in promoting the public weal. His house was in the Market Place on or near the present site of the Bunker Hill National Bank building.[2]

[1] New England Historical and Genealogical Register for April, 1888, xlii. 184, 185.

[2] Sedgwick afterwards removed to Boston, where he owned a house and garden on Washington Street, the estate being contiguous, on the north, to that on the corner of School Street, a part of which is now (1895) the site of the "Old Corner Book-Store." *Cf.* Boston Record Commissioners' Reports, ii. 192

"The first Sergeant-Major chosen to order the regiment of Essex, was Major Robert Sedgwick, stout and active in all feats of war, nurst up in London's Artillery Garden, and furthered with fifteen years experience in N. E. exact theory, besides the help of a very good head-piece, being a frequent instructor of the most martial troops of our Artillery men. Although," continues Johnson, from whose quaint chronicle we quote, "Charles Town . . . do not advantage such o'ertopping batteries as Boston doth, yet hath he [Sedgwick] erected his to very good purpose, insomuch that all shipping that comes in . . . must needs face it all the time of their coming in. The cost he hath been at in helping on the discipline of his regiment hath profited much."[1]

This zeal for the service procured him the gratitude and affection of the soldiers, which were manifested by the trainband's giving him, with the unstinted liberality of those who bestow what does not belong to them, a piece of land in Charlestown, the title to which, fortunately for him, was afterwards confirmed by the town.

The so-called "Blue Laws" of Connecticut at this period have an invidious but scarcely deserved pre-eminence in evil fame over those of her New England sister colonies. Indeed, as we are told by Mr. Charles Deane in his chapter on New England, in Winsor's Narrative and Critical History of America, the twelve capital laws of the Connecticut colony, established in 1642, were taken almost literally from the one hundred laws called "The Body of Liberties," established by the General Court of Massachusetts in 1641. The legislation against graver offences, and the rough paternalism of the law-makers of those days, characteristically unlike that of the modern "American System," among other moral therapeutics of the heroic sort, subjected children over sixteen to the possible punishment of death for "cursing or smiting" their parents,[2] or even for being "stubborn or rebellious"[3] to them. Though in truth not outdone by the maligned Code of Draco, this might be paralleled in the old statute books of the mother country. We need not stop to shudder at a theoretical severity of discipline seldom or never enforced, and which certainly did not affect the domestic life of Robert Sedgwick's family;

and iii. 2; Wyman's Genealogies and Estates of Charlestown, ii. 852; and Memorial History of Boston, i. 399, ii. xxxiv.

[1] Wonder-Working Providence of Sion's Saviour in New England (Poole's edition), p. 192.

[2] General Laws of New Plymouth, chap. ii. sec. 13, p. 245.

[3] *Ibid.* chap. ii. sec. 14, p. 245.

but so much of the legislation of the day as related to extravagance or unsuitableness of attire came nearer home. Greek, Roman, and English civilizations have all had, from time to time, virtuous spasms resulting in the adoption of this kind of laws; but the sumptuary enactments of our Puritan fathers, perversely following the total abandonment of the same species of legislation by the mother country, though keeping a reasonable eye to the main chance, and indicating a lingering liking for the discarded privileges of aristocracy, were very characteristic of our canny ancestors, and certainly tended to restrict the profits of Sedgwick's business.

"Although," declares the General Court, "we acknowledg it to be a matter of much difficulty . . . to set down exact rules to confine all sorts of persons, yet we cannot but account it our duty . . . to declare our utter detestation . . . that men or women of mean condition should take upon them the garb of Gentlemen, . . . or points at their knees, or to walk in great boots, or women of the same ranke to wear silk or tyffany hoods or scarfes, which though allowable to persons of greater estates, or more liberal education, yet we cannot but judg it intollerable in persons of such like condition."

The Court therefore orders —

"That no person within this jurisdiction, nor any of their relations depending upon them, whose visible estates real and personal shall not exceed the true and indifferent value of two hundred pounds, shall weare any gold or silver lace or gold and silver buttons, or any bone lace above two shillings per yard, or silk hoods or scarfs, upon the penalty of ten shillings for every such offence. . . . And forasmuch as distinct and particular rules in this case suitable to the estate or quality of each person cannot easily be given," the Court orders "the Selectmen of every town, or the major part of them, . . . from time to time to . . . take notice of [the] apparel of any of the inhabitants of their several Townes respectively, and whosoever they shall judg to exceed their rankes and abilities in the costlines or fashion of their apparel in any respect, especially in the wearing of Ribbons or great boots (leather being so scarce a commoditie in this country), lace, points, &c., silk hoods or scarfes, the Selectmen aforesaid shall have power to assess such persons so offending in any of the particulars above mentioned, in the country rates, at two hundred pounds' estates, according to that proportion that such men use to pay to whom such apparel is suitable and allowed."

By a shrewd proviso, however, it was declared that the law should —

"not extend to the restraint of any Magistrate or public officer of this jurisdiction, their wives and children, who are left to their discretion in wearing of apparel, or any settled Millitary officer or souldier in the time of millitary service or any other whose education and employment have been above the ordinary degree, or whose estate [shall] have been considerable though now decayed." [1]

The amount of profit on the sale of cloth was rigorously restricted. In 1639 Mr. Sedgwick in his capacity of a merchant was admonished for selling goods too high. Indeed, he can hardly have avoided some embarrassment in harmonizing his gains as a thrifty tradesman with his duties as a Selectman in detecting and repressing extravagance. While it is not mentioned that he concurred as a magistrate in the warning which he received as a draper, it does not appear that his offence was repeated.

Soon after his arrival Sedgwick aided in forming the Ancient and Honorable Artillery Company. In 1641 he was chosen its Captain, an office which he also held in 1645 and 1648. It is worth noting that when he and Francis Norton became inhabitants of Charlestown and undertook the training of its trainband, the town was relieved from the payment of the "twenty shillings a time" that it had previously paid "to the renowned Captains, Patrick and Underhill," for this service.[2] In the first of these years Captain Sedgwick was assigned to the command of the fortress which seven years before had been built on an island in Boston Harbor, and was known as the Castle. On its site is now Fort Independence. In 1645 he was commissioned to take charge of the fortifications of the town, and to keep it and the harbor "from all hostile and mutinous attempts or insurrections." In May, 1652, he was chosen Major-General of the Colony.

Nor in the arts of peace was Sedgwick less successful. He was enterprising in trade, useful in the town and popular with the citizens. In association with others and also alone, he built ships, warehouses, and wharves. He was engaged with "Deacon Stit-

[1] The Colonial Laws of Massachusetts reprinted from the edition of 1660 (Whitmore's edition), p. 123.

[2] Frothingham's History of Charlestown, p. 97.

son" [1] as owner and builder of the Tide Mill at Middlesex landing in Charlestown, and with John Winthrop, Jr., in the first furnace and iron works at Lynn. With Mr. Increase Nowell and others, he took an active part in having a new meeting-house built. In 1638 he owned a goodly number of lots in, and a tract of land adjoining, Charlestown, including "eight score acres" at the north-east point of the town bordering the Boston line and embracing a part of Lynn. If this domain had come down to his descendants tax-paid, it would have made them perfectly comfortable even at the present rates of living.

In 1642 Sedgwick aided in setting off Charlestown Village, under the name of Woburn,[2] from the parent town, as is attested in the Woburn records by some beautiful verses, of which the poets of this Society must be content with the following specimen: —

> "In peniles age I Woburne Towne began
> Charles Towne first moued the Court my lins to span
> To vewe my land place, compild body Reare
> Nowell, Sims, Sedgwick, thes my paterons were." [3]

In 1648 the customs on wines at the port of Boston were let to Sedgwick and others for £120, and evidently yielded the associates a fair income. From his trade, his mill, his iron foundry and farming of the revenue he derived a comfortable income, which enabled him to live well and practise charity. His contributions to the town school were liberal, and in 1642 he gave £40 to the infant college at Cambridge, — which, trifling as it seems to-day, was by far the largest pecuniary donation then or for years after received by it since its foundation by John Harvard's noble bequest. Four years later, he conveyed to it "two shops standing by the ordinary called the Ship's Tavern [Boston], under lease for fifteen years at ten shillings sterling," which term was afterwards extended five years more by President Dunster.[4]

Stern in his religion, as then befitted a Puritan nonconformist, Mr. Sedgwick yet scorned the atrocious bigotry of the legislation

[1] William Stilson's name was often spelled "Stitson" and "Stetson" in the early records. See Wyman's Genealogies and Estates of Charlestown, ii. 902.

[2] The town was named by Capt. Edward Johnson in honor of his friend and "pateron" Sedgwick, who, as we have seen, was a native of Woburn, in Bedfordshire, England. See Hurd's History of Middlesex County, Massachusetts, i. 336.

[3] Wonder-Working Providence (Poole's edition), p. lxxxvi. Frothingham (History of Charlestown, p. 108) interprets the phrase "compild body reare" as meaning "my compact body to rear."

[4] Quincy's History of Harvard University, i. 271, 511.

of the day. So early as 1643 he united in a petition to the General Court to repeal the cruel laws against the Anabaptists. The Court curtly answered that these laws "should not be altered or explained at all," and three years later granted a counter petition for their more effectual enforcement.

Early in 1654, having returned to England on a visit, General Sedgwick fell under the notice of Cromwell, who with his wonted shrewdness perceiving the colonist's civil and military capacity, appointed him and Captain John Leverett to the charge of an expedition against the Dutch on "Hudson's River and at the Manhatoes." These Commissioners on 17 June, 1654, met other Commissioners from the General Courts at New Haven and Connecticut for the arrangement of the campaign. Immediately after, however (20 June), news arrived of the conclusion of peace between England and the United Provinces.

The ship in which the Commissioners had come met with headwinds and had a slow passage, so that the vessel which brought the announcement of the peace arrived almost as soon. Sedgwick, always devout, and a firm believer in the conduct of human affairs by the direct agency of Heaven, writes to Cromwell, 1 July, 1654:

"When I considered the vareious and strainge turnes in God's workings and dealeings with us in our voyage, it makes me now beleive, and apprehend, that hee stood in our way . . . causeing our voyage to be longer then is usuall at that season of the yeare, and bringing in that shipp, that brought newes of peace, with a short and prosperous voyage."[1]

He was a Cromwellian after the Protector's own heart, pious in thought, Scriptural in language and resolute in action, although he had a tender nature, and preferred the sword of the Lord to that of Gideon. His report, like all his official correspondence, betrays a trust in God which was absolute, and, under Him, in the Lord Protector, which was less unwavering though doubtless as sincere.

The close of hostilities with Holland caused the release of a Dutch prize General Sedgwick had captured off the coast of England, and Cromwell's vigorous preparations to attack the Dutch were turned against the French. "The restoration of Acadie to France, in 1632, had not been agreeable," says Murdoch,[2] "to the republicans in old or new England." Disregarding the trifling

[1] A Collection of the State Papers of John Thurloe (Birch's edition), London, 1742, ii. 419.

[2] History of Nova Scotia, i. 126.

circumstance that it was a time of profound peace between England and France, Oliver gave secret orders that when the Dutch colony should have been reduced, Nova Scotia should be conquered. On hearing of the Dutch treaty, therefore, it was determined, in June, 1654, by the Commissioners in Boston, to annex Acadia. It may be said in excuse that the title to this fair province was in a rather loose and fluctuating condition, as was apt to be the case with North American territorial titles at that day. The Sieur d'Aunay de Charnisay had claimed all Acadia on the ground, apparently, of prior occupation. Emmanuel le Borgne, having recovered against him a judgment for 260,000 livres (or francs), proceeded to try to enforce it by the seizure of the whole province.[1]

At this juncture, July, 1654, Sedgwick, with strong Oliver at his back, appeared on the scene and superseded both titles by the application of —

> "The good old rule, the simple plan,
> That he should take who has the power,
> And he should keep who can."

Sedgwick, as a subordinate faithfully executing orders, ought not to be held responsible for the iniquity, if such there were, of this invasion. It is the glory of the soldier's fidelity that it is unquestioning. "Theirs not to reason why" applies to officers under orders as to privates in the ranks. Even if "thrice is he armed that hath his quarrel just," the soldier's gallantry is not tarnished by the injustice or arrogance of his governors. If it were so, how often would the red coats of the long line of English heroes be stained a darker dye! So far, indeed, as Sedgwick was entitled to question the rightfulness of the campaign, he may well have accepted the theory, which was especially prevalent in those cold but quarrelsome latitudes, that every Englishman was in a state of normal hostility to every Frenchman. This theory took much of its local vigor from the circumstance that in 1605, two years after Henry IV. of France had generously granted to a gentleman of his household all of North America between 40° and 46° north latitude, James I. of England, with rival generosity, granted to some of his English subjects all the territory of the same continent between 34° and 45° north latitude, — embracing five parallels of the French grant.

[1] Murdoch's History of Nova Scotia, i. 124.

Leverett, writing to Cromwell from Boston 5 September, 1654, announces that "the Lord has vindicated the blasphemy of those who had given it out among the Indians that the English were so and so valiant and victorious against the Dutch at Sea, but that one Frenchman could beate ten Englishmen ashore." These Gallic illusions, if they existed, were dissipated by the successive capture by General Sedgwick of the Forts of St. John and Port Royal in July, 1654, — the first with a force not exceeding that of the besieged, and the second with but half the number of the garrison. In St. John, "seventy fighting men, eighteen pieces of ordnance, and several busses," and in Port Royal, "a hundred and fifty men with eighteen pieces of ordnance, besides small stock fowlers and busses, also ammunition a good quantity," were captured. Thence, with a fleet of four ships, General Sedgwick sailed to Penobscot. This place had been taken from the Plymouth men about eighteen years before by the French, who had strongly fortified it. On the second of September following, it surrendered with eight pieces of ordnance, three smaller pieces, and a good supply of ammunition. This success completed the reduction of Acadia, which, although destined to revert temporarily to the French before its final incorporation with the British empire, was thenceforward to be known by the name Nova Scotia, by which the English had a few years before baptized it. The General Court of Massachusetts, though entertaining a doubt whether Sedgwick had not exceeded his commission, "appointed a publick and solemn thanksgiving to the Lord for his gracious working" for the Commonwealth.

Cromwell, far from finding fault with Sedgwick's vigorous proceedings, after issuing a proclamation[1] by which civil government was established and all duties and imposts were remitted for a period of seven years in the lately captured island of Jamaica, despatched him with a fleet to reinforce the troops stationed there under Generals Penn and Venables.

On Sedgwick's arrival at Barbadoes after a prosperous voyage, he found that General Venables had been repulsed from Hispaniola with a loss of from four hundred to five hundred men. Pursuant to an order from General Penn awaiting him at Barbadoes, after taking provisions at that island, Sedgwick united his forces

[1] Thurloe, iii. 753.

with those of Venables, and proceeded to Jamaica, touching by the way at St. Christopher's, and passing near enough to San Domingo to observe people in arms engaged in building earthworks.

The Puritans, notwithstanding the thoroughness of their discipline when concentrated under an iron leader like Cromwell, were Independents in their military as in their religious notions, and Sedgwick found at Jamaica a medley of officers in a divided and loose command. The fleet was under Admiral William Goodsonn, and the army under Major-General Fortescue, General Penn, General Venables, Commissioner Butler, and others. The authority of Sedgwick's Commission, however, was promptly recognized by these officers; and the only obstacle to a harmonious conduct of affairs was in the scruples of Sedgwick himself, who entertained a doubt as to the supremacy of his command, arising perhaps in part from disinclination to assume so grave a responsibility. A provision in the constitution of the Commission as originally appointed by the Protector allowed "no act but what was acted on by three or in some cases by two." Commissioner Butler relinquished his position, and but for a belief that it was his duty not to allow the objects of the expedition to be defeated by technical conflicts of authority, Sedgwick would willingly have yielded his supremacy. All the officers were indeed unselfish, and an instrument[1] was mutually executed by them establishing a government by a Supreme Executive Council, with Sedgwick at the head. This Constitution Sedgwick transmitted to Cromwell for his approval. In his reports to the Protector, he gives a graphic picture of the state of things discovered by him. The fleet was in good health and condition. Admiral Goodsonn had landed at St. Martin's, taken and demolished two forts, and plundered and burnt the town. It was a gallant action, says Sedgwick, "although," he adds, — betraying the courageous kindliness of his nature, of which frequent instances are found even in the scanty details of his life which have come down to us, — "in my judgment it is not so honourable that your highness's fleet should follow this old trade of West-India cruisers and privateers to ruin and plunder poor towns, and so leave them."[2]

Sedgwick's report of the army is deplorable enough. Of the soldiers large numbers were dead, —

[1] Thurloe, iv. 152.

[2] *Ibid.* iv. 152, 153.

"the carcasses lying unburied in the highways and among bushes. Many of them," he writes, "that were alive walked like ghosts of dead men, who as I went through the town lay groaning and crying out 'Bread for the Lord's sake!' Unless God in his mercy stay his hand, will all perish, and be as water spilled upon the grass, that cannot be gathered up again. Greatest part sick — those set down as well, pitifully well. Of Col. Humphrey's regiment landed 831 lusty men, 50 are dead. Officers all sick and weak. Young men in appearance well, in three or four days in the grave. Soldiers die, I believe, a hundred and fifty a week. The truth is, God is angry and the plague is begun, and we have none to stand in the gap. . . . My heart and soul grieveth when I think of Hispaniola business, one or two negroes to make five hundred Englishmen fling down their arms and run away. Oh tell it not in Gath, nor publish it in Askelon, lest the uncircumcised rejoice. The truth is you cannot conceive us so sad as we are, broken and scattered, a senseless hearted people, not affected with his dealing with us."[1]

No sooner had the expedition settled itself than Major-General Fortescue died. Sedgwick thereupon made Colonel D'Oyley commander of the forces for three months, or till the Protector's order.

As to the country, it is the old story. All save the spirit of man was divine.

The island, writes Sedgwick, seems desirable, productive, full of cattle. The English have killed twenty thousand, and they are now so wild it is not easy to kill them. Our soldiers have destroyed all sorts of fruits, provision, and cattle. Nothing but ruin attending them wherever they go.

There is a considerable number of Mulattoes and blacks, and some Spaniards — some say a thousand, and some two. What God will do with them or with us by them I know not, but I have thought sometimes they may do us a mischief. He warns the Protector that there is nothing left for carrying on the work but two field-pieces and a few great guns. The garrison, he writes, is dwindling. The enemy is threatening. If there were planters it might be well. Soldiers should be employed or sent home. They will rather starve than work. Unless more provision be supplied, they will perish for want of food. I humbly beg that your highness would cast an eye this way, that these poor people be not made a sacrifice to an enraged enemy.[2]

[1] Thurloe, iv. 155. [2] *Ibid.*

In the same letter Sedgwick avows his belief in the piety and justice of Cromwell's plans, in terms which, though evidently heartfelt, seem to suggest that he was aware of the doubt which the Protector's enemies then entertained, as some of his critics have since done, as to his sincerity.

"I left my native land and my dear relations in some singleness of heart and eyeing God and his glory in this venture, hoping he might have some design in hand to the accomplishment of that, which hath so long time been the prayer, and desire of his people; and also thinking God might have carried your spirit to that purpose, to attend this work. I was satisfied [with] the work itself, taken much with the honesty of your highness's expressions, and that religious discourse came from you out of a heart, as I believe, unfeigned, which made me believe God would own the design, and prosper it."[1]

Again he says: —

"I am fully satisfied of your highne's [*sic*] pious and religious intentions in this design; yet God may disappoint expectations in many particulars, but in the issue magnifying his special love and grace."[2]

A striking passage reminds us of Lincoln's immortal words in the reference to slavery in his second inaugural address: —

"The righteousness of God's dealings and proceedings with us may early, I think, be discerned, and be justified in his actions towards us. He is a pure and holy God, and delights in pure and clean actings of the people professing his name. I must still say, O, how just art Thou, O God! in all thy works, and righteous to the sons of man."[3]

Sedgwick's heart was oppressed by the suffering and unthrift everywhere on the islands, and he was appalled at the inadequacy of the means for the serious undertaking confided to him; notwithstanding his honest faith in Oliver, he evidently questioned whether the great immediate destruction of human life was not out of all proportion to the ultimate gain to Great Britain and mankind. Coming events cast their shadows before, and he felt a premonition that his life would sink under the burden the Protector had laid upon him. "I am sometimes," he writes, "sick, and think I may fall away among the rest of my countrymen, and durst do no other than plainly to let your highness know our condition."

[1] Thurloe, iv. 155. [2] *Ibid.* [3] *Ibid.*

Of his master he makes two requests, which proved his last:

"One is, if God spare me life, that your highness would be pleased to admit me to come to England. But I am not very solicitous as to that; sometimes thinking that another place will be my portion before I hear again from your highness.

"The other petition is, I left behind me a dear and religious wife, who through grace hath much of the fear and knowledge of God in her. I have also five children, to me dear and precious. I would only beg this, that whatever hazard or hardship I may go through, my relations may not be forgotten. I only expect what your highness was pleased to promise me, that they may not be troubled in obtaining it in such seasons, as may tend to her comfort." [1]

He pledges himself to "continue the business under the instrument drawn up, hoping very speedily to receive further orders. You shall find me," he adds, "willing according to those talents which God giveth me, to give myself to the utmost I can to be serviceable in the present employment which God hath cast me in." [2]

On 24 January, 1655–56, he writes to Secretary Thurloe, —

"I must profess I am not able to discover or make out to myself what God intends in this business; only this I am willing to believe and hope, God may lay us low in the dust, and humble our souls before him, and if thereby he may be pleased to prepare our spirits for some more glorious carrying on to the end his work, it will in the issue be a mercy. But hitherto God hath torn us, and scattered us, yet seems not to bind us up, or heal us. Did you but see the faces of the poor, small army with us, how like skeletons they look, it would move pity; and when I consider the thousands laid in the dust in such a way as God hath visited, my heart mourns. I know this work could not be expected to be carried on without the loss of many men's lives; yet if God should sweep us away, as if he would take no delight in us, what may we think? It is true," he continues, "we may with our fleet and a few soldiers waste and burn towns and places of inferior rank, but that can procure little profit unless God cast in some considerable ships in our hands. . . . Some have been apt to think that if the money spent in this design had been laid out in lying upon the coast of Spain, it might have brought the Indies to have bowed to easy terms; but that I waive. . . .

[1] Thurloe, iv. 155. [2] *Ibid.* iii. 151.

"It is possible you may count me despondent, . . . yet . . . never man heard me discourage the work, but do and shall to the uttermost encourage and strengthen the hearts and hands of any employed in this affair. I have been thought too bitter in reproving the despondency of men's spirits in this business." [1]

With melancholy frankness Sedgwick asserts his unfitness for the work before him, which, he says, he should not have undertaken if he had not expected to find associates of greater abilities than he has, and begs that men be sent "of approved goodness, and of sound and solid judgment, and able pens, which are extremely wanting amongst us."

On the same date a detailed report by Sedgwick, jointly with Vice-Admiral Goodsonn, to the Protector, describes the continued decline and wretched condition of the army, which is still losing not less than fifty men a week, and is reduced to less than three thousand. A depredation of the kind that Sedgwick in a former communication had deprecated, had been inflicted on the north side of the island, where a few firearms and one mulatto had been captured; but the invader's means had been inadequate to renew the attempt at the taking of St. Jago de Cuba, in which Venables had failed, or for any other serious enterprise. This report, like all the others of Sedgwick and his associates, was full of the pious Puritanism which has so long, in fact as well as in expression, disappeared from such papers both in the new and old worlds. "Let the Lord," say these devout captains, "send by whom he pleases, we believe you have an interest in Heaven, and hope we are the subject of your prayers; we stand in as much need thereof as ever poor people did; an anchor cast within the vale will hold; if Christ own us, we continue and conquer." On the twelfth of March following, the same officers, in another long report to the Protector, announce that the army, though reduced to twenty-five hundred men, is in better condition. "But if his highness resolve to proceed in this great design, he must in a manner begin the work again." [2] More soldiers and settlers and more provisions were needed. D'Oyley, in writing to Thurloe, complains bitterly of the want of liquor, — "the waters of the country breeding dropsies and other distempers, and nothing to be bought of the seamen but at treble rates."

[1] Thurloe, iv. 454.

[2] *Ibid.* iv. 600.

On the same date Sedgwick, in a separate communication, reports to Thurloe a "better outlook." "Though some still die, and many are weak, yet generally they recruit strength — a marvelous great mercy." He has had, he writes, "not a few revolutions and turnings of heart about our business, and . . . sometimes been willing to go to Heaven, to the God of Counsel, what advice and which way to act." But he still struggles with perplexities and anxieties.

"Fleet," he writes, "not over-manned. . . . Seamen on shore in land service are so extremely uncommanded and undisciplined in that service that it may be ruinous to them. If we fall on small towns, it is true we may burn and destroy the estate of our enemies; but by attempting such a course it will be prejudicial, as I conceive, to the great ends proposed. We are not able to possess any place we may attack, and so cannot dispense any knowledge of the true God in Jesus Christ to the inhabitants, but rather render ourselves to the Indians and blacks a cruel, bloody, ruinating people when they can see nothing from us but fire and sword . . . and cause them to think worse of us than of the Spaniards. . . .

"The inhabitants run away, carrying their treasure. The plunder does not pay for the powder and shot spent. The seamen are brave, but the army is worse than would have been thought possible for Puritan and English soldiers. . . . Our army in general," he writes, "I believe they are not to be parallelled in the world, a people so basely unworthy, lazy, and idle, as it cannot enter the heart of any Englishman that such blood did run in the veins of any born in England." Those in command are nearly as bad as the men. "Officers say soldiers won't, when it is most certain they are not willing they should, but still stand gaping to go off the island as after a gaol-delivery." [1]

Sedgwick had received from the Protector two main injunctions for effecting the subjugation of the island, — namely, fortification and plantation; but under the sad conditions prevailing, little could be done towards fulfilling them. By great exertions, however, some progress was made. "A fort," he writes, "is almost finished — as good as the materials will permit, and may prove useful." Other works are started, including a magazine and "small palisado for powder and ammunition," but all proceeds languidly. He exclaims: "Such kind of spirit breathing in Englishmen, I till now never yet beheld;" and he adds: "I see

[1] Thurloe, iv. 604.

a vast expense and no return, no, none at all, and methinks I see little will be, yet sometimes think God may return in mercy and yet own our people; but on the other hand, sometimes am thinking he will not own his generation, but that they will die in the wilderness."

The indolence and imbecility of the land forces are the more intolerable because the means of living are within their grasp. "The island if planted by industrious people would be exceedingly profitable."

In closing he says: "I blush to think that the so-long progress of so gallant a design should produce no other return but letters filled with such kind of matter as this." [1]

The wretched condition of affairs described in the foregoing report continued with slight fluctuations to the end of Sedgwick's life. His sensitive nature soon gave way under the strain to which he was subjected. By the weird legerdemain of fate, the same fiat of the Lord Protector which raised him to the head of the expedition buried him in the grave.

After the death of General Fortescue, who had been in charge of affairs in Jamaica, Cromwell sent a commission to Sedgwick giving him supreme command. Discontent had broken out among the soldiery, and three mutinous leaders had been executed. The laurel bestowed on him was mixed with cypress, and boded ill to his anxious spirit. He concealed the news from those around him, especially from Colonel D'Oyley, who at the time, in the absence of Admiral Goodsonn on a cruise, was in temporary command, and was eager for the preferment from which Sedgwick shrank. D'Oyley writes to the Protector, 20 June, 1656: "He sent immediately upon the receipt of his commission to me, but told me nothing of the commission, but by his looks showed unusual dumpishness and confusion." After reporting Sedgwick's death, he adds: "I had the greatest loss in him, being now in the publique charge without your highness' commission." The closing scene is so striking as to justify the following extracts from a letter written, 25 June, 1656, by Sedgwick's secretary, Aylesbury, to Thurloe: —

"I came hither . . . with Major-General Sedgwicke, whose favor, which I enjoyed in a large degree, was as great an honor to me as his death was an unhappiness. I may truly say, never man had a more real

[1] Thurloe, iv. 604.

friend or a greater losse. Yet I do not so much bewaile myself as the publique, to which he was exceedingly useful, very generally beloved and esteemed by all sorts of people. He dyed upon the 24th of May, not of any visible great distemper, only a little feaverish; and the morning it pleased God to take him from us, I as little apprehended his death as at any time since our departure from England. But his disease was inward; he never enjoyed himselfe since the last letter, but as was apparent to all . . . from that time lost much of his freedome and cheerfulness. When he had perused his letters, having been private about two hours, he called me to him; and when I came into the roome, perceiving a great alteration in his countenance, I asked him what was the matter. He replyed, 'Ah! Mr. Aylesbury, I have not, since we were together, concealed anything from you that most concerne me. . . . I am utterly undone. I have had the greatest conflict in my spirit that ever man had, and find I am not able to bear what is laid upon me.' 'Sir,' sayd I again, 'what is the matter?' 'Peruse these letters,' he replyed, 'and you will see.' I read one from his highnes, another from yourselfe, . . . after the perusal whereof sayd I, 'there is nothing contained in these that ought to afflict you. His highness hath made choice of you to command his army; and both he and Mr. Secretary have expressed so great an esteem of you, that on the contrary you have good cause to rejoice your endeavors have been so well accepted, and be thankful to God for it.' 'Ah! Mr. Aylesbury,' said he again, 'it is that which undoes me. There is too much expected of me, and I, conscious of my own disabilities, having besides so untoward a people to deale with, am able to perform so little, that I shall never overcome it; it will breake my heart,' and so, notwithstanding all the arguments I could use, I verily believe it did. He was a truly religious man, and of the most innocent conversation I ever accompanyed."[1]

In a letter written by Cromwell in June, 1656, to the commanders in America, he announces the despatch of more regiments and provisions, reminds them of the vast charge of maintaining the fleet, gratefully "sees that the Lord has been pleased to smile on them in some measure in respect to the health of the soldiers," deplores the unworthy conduct of some officers in provoking the soldiers' discontent, and directs that "something be published by the commander-in-chief that no license of leaving the army on any terms be granted." To Sedgwick, as commander-in-chief, he wrote separately to the same effect. But these orders, worthy as they

[1] Thurloe, v. 154.

were of the great ruler whose foreign policy had made England more respected abroad than ever before, reached Jamaica only when Sedgwick was in his grave. Indeed, it was not till after the Protector's own death, which followed in a little more than two years, that the permanence of his conquest of Jamaica became finally assured. Still later was it that the insular government he established became a pillar, though never a very solid one, in the huge colonial fabric which he did so much to rear and consolidate.

Sedgwick's premature death was deplored, as his piety and virtue had been recognized, by all his associates. Admiral Goodsonn, writing to Thurloe, 25 June, 1656, says: —

"We arrived here the 23d [of May]; where we found major-general Sedgwicke, who the next day after God was pleased to take to himself; a person, I have cause to believe truly feared God, and one whose losse we have reason to lament, being of singular use in this worke, and generally beloved of the souldiery."[1]

Carlyle, after touching on "the deadly inextricable jungle of tropical confusions" and the sad sacrifices of the leaders, describes Sedgwick as "a very brave, zealous, and pious man, whose letters in *Thurloe* are of all others the best worth reading on this subject."[2]

Like many other delicately strung natures on which heavy responsibility has been suddenly flung, Sedgwick broke down under a load which a robuster nervous organization might have borne without wincing. Like the Prince of Denmark, he might have exclaimed, —

> "The time is out of joint! O cursed spite,
> That ever I was born to set it right!"

The close of his life and his character are thus epitomized by the historian of Jamaica: —

"The fortification at Caguay, or Port Royal Point, was now almost compleated, when the major-general, who was sick of his charge, wearied out with the refractory temper of the army and unprosperous condition of the colony, . . . received the Protector's order to take upon him the sole and supreme command. So undesirable a preferment was not more welcome to him than a death warrant. In short, when he reflected on the impossibility of his fulfilling the Protector's intentions with such

[1] Thurloe, v. 152.

[2] Cromwell's Letters and Speeches (Chapman and Hall edition, London, 1870), iv. 171.

miserable instruments, of whose unfitness for such a work he was fully sensible, . . . and perceived how much the Protector relied upon his single ability, he could not conquer his diffidence; the chagrin so deeply preyed upon his spirits as to overwhelm him with melancholy; and he died . . . within a very few days after receiving the orders. The general regret, which appeared in the fleet and army in consequence of this event, was a clear indication of his worth. The honesty of his heart, the mildness of his disposition, gentleness of manners and competence of understanding, qualified him to have been a most amiable governor over any well-settled and established colony. But he wanted that severity, firmness, and fire which were requisite to subdue and awe the stubborn, restive, and insolent spirits, that had long distracted the army in Jamaica."[1]

In the hecatomb of lives sacrificed during the sad and inglorious struggle for the retention of Jamaica, none was gentler or braver than that of Robert Sedgwick. Cromwell's major-general united with fine and noble qualities that self-depreciation which, due or undue, has marked some of his descendants, — especially Major-General John Sedgwick, who died the idol of the Sixth Corps of the Army of the Potomac after thrice declining the supreme command of that army.

Mr. Charles Sedgwick Rackemann said: —

In view of the fact that Robert Sedgwick was prevented, by his untimely death in Jamaica, from returning to Charlestown, where, prior to his departure, he had so many personal and property interests, it is worth while to note that, two and a half centuries later, the title to some of the same lands of which he was a part owner was questioned, and became the subject of litigation which was carried to the Supreme Judicial Court,[2] and that three of the lineal descendants of General Sedgwick were employed by the Railroad Company which asserted title to these lands and successfully maintained its claim. These three men are all members of the Suffolk Bar, — namely, the present William Minot, who was junior counsel in the conduct of the case; his younger brother, Robert Sedgwick Minot; and myself. The "Report" of the case, so called, by which it was reserved for the consideration of the full bench, contains an interesting summary of the state of the early title. This Report is not printed in the volume just referred to

[1] Long's History of Jamaica, i. 257.

[2] Eastern Railroad Company *v.* Allen, 135 Massachusetts, 13 (A. D. 1883).

(135 Massachusetts Reports), which contains the opinion of the court upon the law questions involved; but it is on file, with the briefs of counsel and other papers, in the Social Law Library.

The lease made by General Sedgwick of the Charlestown Tide Mills, being the estate in question, is dated 1645.[1] The lessee there named was John Fownell. From this lease, and subsequent papers relating to the title, it appears that the original proprietors of these lands were Robert Sedgwick, owning one eighth; William Stitson,[2] one eighth; Thomas Coytemore, five eighths; and John Coggan, one eighth.

At the time when the case was in court, no will of Robert Sedgwick had been found. He probably left none, as administration on his estate was granted in England, 30 September, 1656,[3] to his widow, Johanna Sedgwick, who, in the following year, was living at Stepney, near London. Mr. Waters, however, has found the will of John Sedgwick, brother of Robert. I suppose that our own General John Sedgwick, already referred to to-day, may have been named for General John Sedgwick of the Revolutionary Army, brother of Judge Theodore Sedgwick, and he, in turn, for this brother of the emigrant.

Mr. Henry H. Edes communicated the following letter of the Rev. Samuel Cary, afterwards Assistant Minister of King's Chapel, Boston, prefacing it with these remarks: —

Mrs. Sarah Atkins, of Newbury, to whom the following letter is addressed, was a woman of marked ability. She was the daughter of Col. Richard Kent and Hannah Gookin, whose first husband, by whom she had four children, was Vincent Carter, of Charlestown.[4] Through her mother, Mrs. Atkins had a distinguished lineage, and also a social rank which was in no way affected by the sharp vicissitudes of fortune that she experienced in her young widowhood. The Rev. Thomas Cary, long the minister of the Third Parish in Newbury, married Esther, a daughter of Nathaniel Carter (son of Vincent Carter), a half-brother of Mrs. Atkins; and the Rev. Samuel Cary, the writer of the letter I hold in my hand, was the son of this marriage. The warmest affection existed between the Carter and Kent kindred of the half blood; and although not lineally

[1] Massachusetts Archives, lix. 22.
[2] Cf. *ante*, p. 160, note 1.
[3] New England Historical and Genealogical Register, January, 1888, xlii. 67.
[4] Wyman's Genealogies and Estates of Charlestown, i. 180, 188, ii. 573.

descended from Mrs. Atkins, Samuel Cary always called her "grandmother." Both, however, had the blood of Hannah Gookin, of whom I have just spoken.

Mrs. Atkins's descendants are no less distinguished than was her ancestry,[1] and bear the honored names of Dexter, Dwight, Eliot, Higginson, Norton, Parkman, and Ticknor, not to mention others of our early Massachusetts families.

A Memoir[2] of the Hon. Dudley Atkins Tyng (the fifth child of Dudley and Sarah (Kent) Atkins), by the Hon. John Lowell, contains the following tribute to this remarkable woman: —

"Mr. Tyng's father having died at the early age of 37, under circumstances of great embarrassment as a merchant, in no degree affecting his character as a man, the care of his whole family devolved, without other means than the resources of her own strong and vigorous mind, upon his widow, the late Mrs. Sarah Atkins. Those who, with us, had the happiness of knowing the energy, perseverance, and high intellectual character of this lady, will not be surprised at her surmounting difficulties which would have discouraged minds of less force, and that she not only provided for the physical wants of her children, but imparted to them, by her example and precepts, what was of inestimable and unappreciable value to them, — intellectual and moral power; . . . Mrs. Atkins's efforts and usefulness were not, however, confined to her own family; they shed a benign and most powerful influence upon all who enjoyed the delights of her society. A more radiant mind, one which exerted an higher influence on all around her, cannot easily be cited, — certainly fifty years' experience do not enable the writer to recall one whose moral efficacy was greater. We should not have dwelt upon this subject were it not that in our opinion much of Mr. Tyng's firmness of character, of his sterling integrity, and soundness of opinions, may be fairly traced to the influence of a mother whom no stranger ever visited without a conscious improvement."

The Rev. Samuel Cary, who graduated at Harvard College in 1804, was a divinity student at Cambridge when he wrote the letter which I am about to communicate. He had already attracted the attention of scholars and theologians, as will be seen by the following extract from the Diary of the Rev. Dr. John Pierce, which records an observation of Dr. James Freeman upon Mr. Cary's Commencement performance: —

[1] See Francis Higginson Atkins's Joseph Atkins, The History of a Family, pp. 57–71, 146–150.

[2] Printed in 3 Massachusetts Historical Collections, ii. 284, 285.

"I never knew a better speaker. I have heard my classmate Rufus King, and all the eminent speakers since his time. But this young man in my estimation exceeds them all. I should rejoice to have him for my colleague."

This wish of Dr. Freeman was gratified on the first of January, 1809.[1] In a memorial sermon which he preached after Mr. Cary's death, Dr. Freeman said: —

"At Commencement there was assigned to him a honorable part, by which he excited attention and acquired reputation. In a subsequent performance, at the inauguration of President Webber, he rose still higher. His oration on that occasion has rarely been equalled, perhaps never excelled. The pronunciation of certain words was in such thrilling tones of eloquence that it charmed every classical ear" (p. 45).

The selection of Mr. Cary as the orator at President Webber's Inauguration is interesting from the fact that Dr. Webber (who, when called to the Presidency of the College, was the Hollis Professor of Mathematics and Natural Philosophy, a position he had held since 1789) was born in Byfield, which was in part a parish of Newbury.

Mrs. Lincoln, who is so prominently mentioned in Mr. Cary's letter, was Mary, the accomplished daughter of James Otis the patriot, and wife of Benjamin Lincoln, Jr., of Boston, eldest son of Major-General Benjamin Lincoln, of Hingham. She had two sons, — Benjamin (H. C. 1806), a physician, also mentioned in the letter, who died of fever in Demerara, 17 August, 1813; and James-Otis (H. C. 1807), a lawyer, who died 12 August, 1818. The father of these boys was himself bred to the law and "gave promise of great distinction," but died in Boston, 18 January, 1788, at the age of thirty-one. His widow retired with her sons to Hingham, where she long abode. After a widowhood of nearly twenty years she married the Rev. Dr. Henry Ware, at Cambridge, 9 February, 1807,[2] and died on the seventeenth of the same month.[3]

The text of Mr. Cary's letter is as follows: —

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[1] An account of Mr. Cary's ministry is given in Foote's Annals of King's Chapel, ii. 407–416.

[2] Records of the First Church in Cambridge. For a short time previous to her second marriage, Mrs. Lincoln had been afflicted with melancholia, and fears were expressed (verified by the sad event) that she might die by her own hand.

[3] Tudor's Life of James Otis, pp. 19, 20; History of Hingham, iii. 9, 277; and Records of the Church in Brattle Square, Boston.

CAMBRIDGE, March 19th, 1806.

MY DEAR MADAM, — Your letter threw me into the precise situation in which the poets represent Tantalus, whose hunger was perpetually inflamed by the sight of luxuries which he was not allowed to taste. True I had a taste, but it served only to increase my desire for more; and when I found that I was to have but 3 words and Mrs. Lincoln a huge packet, I was almost on the point of laying violent hands upon said packet. It seemed to me to be excessively large, larger than common letters, as if it meant to laugh at mine; it was as I may say (as Sheridan has it in one of his comedies) *a malicious & designing looking letter*. However I had the philosophy to abstain from doing it any harm, detriment or molestation, a thing as I take it not a little praiseworthy, inasmuch as any provocation is more tolerable than a sneer at our disappointments. But for all this, I could not help thinking that the letter was hardly safe in my hands, & therefore not knowing what might be the consequences, I determined to set off with it directly. Nothing cools the mind like a walk. On the way I began to think that though Mrs. Lincoln's letter might be *longer*, yet it might not be in your own hand-writing, & this thought was so perfectly to the point, that before I reached the house, I was not merely in a state of serenity, but had even acquired an air of triumph, with which I entered. When the facts were fairly explained, I had the satisfaction of hearing Miss Storrow [1] express something like jealousy at my being thus eminently favored; & so the triumph of my letter over that of Mrs. Lincoln was complete.

I have therefore to return a thousand thanks for it, and if I had the same power of giving pleasure by a letter that you have I would return some part of the gratification I have received from it. As it is, however, my gratitude will be best shewn by saving you the trouble of reading a long letter, which shall be done if possible. In answer to the first part of your letter, it would be a matter of no small difficulty, if not impossible, to give you an accurate account of the late revolutions at this seat of the Muses; for the election of Mr. Webber & the resignation of Dr. Pearson have so completely taken off the check from the tongues of the good people of this town & its vicinity, and such a torrent of

[1] Miss Ann Gillam Storrow is here referred to. She was born in Halifax, 24 June, 1784, and died in Brattleborough, Vt., 20 May, 1862. She was the daughter of Capt. Thomas Storrow of the British Army by his wife, Ann Appleton, whose mother, Mary Wentworth, was granddaughter of Lieut.-Gov. John Wentworth, niece of Gov. Benning Wentworth, and cousin of Gov. John Wentworth of New Hampshire (Wentworth Genealogy, i. 513). Miss Storrow was a sister of Louisa Storrow, who married Stephen Higginson, Steward of Harvard College, and lived much in her family, where she was always addressed as "Aunt Nancy."

stories, observations, remarks, criticisms & opinions has issued forth from all quarters, that a quiet person is in danger of receiving a very serious shock. I am fully of the mind that all evils eventually produce good, & such occurrences though not in themselves desirable excite in all parties such a spirit of talking as very essentially do promote health & cheerfulness. I am not certain that you will consider this as very conclusive reasoning. I am however convinced that I should have been in great danger of sinking into dullness the last winter at Newbport [Newburyport] if Dr. Dana[1] had not been civil enough to furnish the public with a topic of conversation. — Professor Pearson, notwithstanding his many & warm declarations of regard, esteem, love, affection, etc., for the College has thought proper to quit his post at the very time when, by his own account in a letter to the overseers, it is most in danger. They who infer a man's principles from his conduct, will not perhaps consider this step as the most striking proof he could have given of his sincerity; unless he has had the wit to perceive that the only way to save the College was by withdrawing himself from any concern in its government. Now I am so wicked as not to believe that he possesses so great a degree of discernment. These professions of friendship for the students were repeated in his reply to their address and would have done very well, if he had not, as I have been told, in his letter to the overseers represented them in a deplorable situation, as youth of bad manners & in need of reformation, etc. Indeed this affectation of sincerity on both sides is extremely ludicrous. The students, who have for years past regarded him with the most cordial aversion & who are, as a body, delighted at his departure, had the assurance, to send him an address in which they expressed their *respect for him & regret that* he was about to leave them. He wrote a reply which was read in the College chapel, & to say the truth was very well done. It was full of good advice & abundance of passages from the Bible. He requested them & all his former pupils to excuse the occasional *severities he had shewn* in his criticisms on their compositions. They were made in haste & with the best intentions. That is to say, with a little circumlocution, My young friends, you have now got to years of discretion, & are I doubt not fully sensible that "folly is bound up in the heart of a child, but the rod of correction shall drive it from him;" this rod it has been my peculiar business to handle, but take my word for it, it has been used with the utmost gentleness, etc.

[1] The Rev. Dr. Daniel Dana, afterwards President of Dartmouth College. He was pastor of the First Presbyterian Church in Newburyport (in a vault under the pulpit of which Whitefield is buried) from 1794 till 1820. From 1826 till 1845 Dr. Dana ministered to the Second Presbyterian Church, the founders of which withdrew from the First Presbyterian Church because of dissatisfaction with his settlement over it thirty-two years before.

Mr. Webber is a very good & learned man, & will make a respectable president, but I think the Corporation would have done better if they had filled the chair with a person who has a little more knowledge of men & dignity of character. Every body is pleased that he has got a better salary, & much of the pleasure consists in the prospect that his old cloak which makes a figure on Sunday, together with other ornaments of himself & family will be committed to the flames with all possible expedition.

Proceed we now to the third topic of your letter, & though not least, to wit Mrs. Lincoln. She is very well & always speaks of you. Your pine table I do assure you wants nothing but a poet to be immortalized. It is in all conversations, in all mouths. Here's a wonder. Your guests are not satisfied with putting the contents of the table upon their tongues, but they find room for the table itself. It certainly deserves to be transmitted to posterity.[1] But a poet in this part of the world would be shewn as a curiosity. We have, however, some hopes of Ben. Lincoln. Mrs. L. notwithstanding her sagacity seems sadly puzzled to account for the overturnings at College. She thinks that variety is charming, but not so confusion.

After Mrs. Lincoln are two etc. etc.'s which as the lawyers say of Lord Coke's, are full of meaning. I comprehend the whole force of them, & perceive at once that untill they are fully treated upon, your letter is not to be considered as answered. I would proceed willingly, but the edge of the paper draws near me, & I must take the hint.

I am, dear Madam

Your obedient & affect. grandson SAM^{L}. CARY.

[Addressed]

MRS. SARAH ATKINS. Favd. by
Newbury. Rev. MR. ANDREWS.[2]

Messrs. LINDSAY SWIFT, of Boston, CHARLES FRANK MASON, of Watertown, and APPLETON PRENTISS CLARK GRIFFIN, of Newton, were elected Resident Members.

[1] One of Mrs. Atkins's descendants writes to me: "The table was of plain white pine, and always kept scoured to perfect whiteness. Mrs. Atkins was obliged to live very carefully, and probably set up her pine table because she could not afford cloths. They had honey in the comb, and, my mother said, no cake except the lightest sponge-cake. These simple things often charmed visitors, but I know not what Mrs. Lincoln saw there."

[2] The Rev. John Andrews, D.D., was colleague and successor to the Rev. Thomas Cary in the pastorate of the Third Parish of Newbury, now the First Parish of Newburyport.

JANUARY MEETING, 1896.

A STATED MEETING of the Society was held in the Hall of the American Academy of Arts and Sciences on Wednesday, 15 January, 1896, at three o'clock in the afternoon, Dr. GOULD in the chair.

The Records of the December Meeting were read and approved.

The PRESIDENT said that he had just heard, as he entered the Hall, of the death, last evening, of our associate, the Hon. MARTIN BRIMMER, and that, unless some gentleman was prompted to speak at this time, an opportunity would be afforded at our next meeting to those who might wish to express their sense of the loss which the Society has met.

Dr. GEORGE LINCOLN GOODALE read this paper on —

NEW ENGLAND PLANTS SEEN BY THE EARLIEST COLONISTS.

IN the course of certain studies relative to useful plants and their economic products, it has been necessary to examine some of the published accounts of New England vegetation given by early explorers and settlers.

Most of the treatises made use of in the preparation of this paper are easily accessible, especially in the convenient authorized reprints. The handful of gleanings now gathered from scanty and conflicting records can make no claim to exhaustive treatment; but it is possible that the more important botanical features presented by them may, in their co-ordinated rearrangement, assume a new degree of interest. Our field is restricted mainly to New England.

The subject may be cast in a convenient form by asking the following questions: —

I. In what condition did the explorers and settlers probably find our vegetation?

II. What use did they make of the plants they found?
III. What changes in vegetation followed their coming?

These questions have been stated in their natural order; and yet a part of the last question must be put first, — namely, What European plants did the very first comers, the Northmen, bring purposely or by accident? If all accounts which are at our command are thoroughly sifted, and the inherently improbable discarded, there remains a residue of probable though not provable statement of deep interest to naturalists. It is not necessary for us even to ask whether the Northmen ever carried back precious "mazur-wood" — which some have assumed to be burls of oak from our sandy Middlesex plains on the Charles — as the bulk of their homeward cargoes; nor is it requisite for us to ascertain whether they made even temporary dwellings for themselves at any point from Labrador to Virginia. If they touched our coast at all, they changed its organic life. Such is the delicacy of balance in the wild life of plants and animals, that it can be disturbed by the slightest causes.

Confining ourselves to a consideration of the vegetable kingdom, we observe that the introduction of a single new plant may have weighty consequences. Such an intruder brings from its former home the vigor which belongs to all adventurers. It finds in its new home surroundings better in some respects than its old, and it is largely freed from its former animal foes. In short, if it is not in any wise dependent on insects for aid, as some plants are; if it touches a soil at all congenial, and grows in a climate nearly like that of the skies under which the seed ripened, — it will thrive in its new habitat, and wage successful warfare with its new neighbors.

It happens that in the eastern part of our country are found a few plants which are substantially identical with species of the Old World, and which by most botanists are regarded as indigenous. At least, these species were here when our earliest scientific observers began to make records of the plants they found. The coming of the Northmen antedated these observers by many centuries. Of course it is possible that the plants in question came, as our glacial species of the White Mountains and Labrador did, from the common home in the north; but it seems as if it were not absolutely necessary to look quite so far back as that. Again, it is possible that a few of these species now growing here at the north, especially those which flourish in wet grounds, may be descendants of plants

which found their way with Columbus and his followers to the lands bordering the Spanish Main. Thence the seeds might have been brought northward, as it is well known seeds can be carried, in the mud clinging to the feet of migratory wading-birds. On this hypothesis, such plants may have had barely two centuries' start of the early collectors; but it does not seem necessary to look quite so far south as that. If we could be sure that Northmen ever raised a single crop of grain upon our coasts, as many of the early explorers did, we could say, with a good degree of positiveness, that this might account for the presence of certain species of plants which began their life here as weeds of the field. But this attractive domain of conjecture must not keep us from the less fabulous accounts of those who came later.

Before we enter on this subject, still another preliminary inquiry must be made. At what date and in what form did accounts of our northern plants begin to find their way into European treatises? Of course the plants discovered by southern explorers, and carried by them to Europe, early found a place in the rude botanical descriptions of those days. But only one of our New England and Canadian species was described until the latter half of the sixteenth century; and up to the end of the century very little had been done in the way of accurately describing or delineating them. There was no treatise accessible in the English language which would have been likely to attract the attention of any seamen or settlers until 1636, when Johnson published his edition of Gerard's Herbal. This contains ten, or possibly twelve, species of our plants. Cornut's work on northern species, published in Latin about the same time, describes a larger number, and gives good figures of nearly forty. In other contemporaneous Latin works references to plants of the northern part of North America are very few, and were not likely to have been known to any of the explorers of that century. Hence it may be said that until about the time of the founding of Harvard College there was no available treatise in the English tongue referring to our botanical species. Nevertheless, in the earliest account of the course of study in Harvard, we read thus:

> "Afternoone.
> The first houre reads history in the winter.
> The nature of plants in the summer." [1]

[1] New England's First Fruits, 1 Massachusetts Historical Collections, i. 245.

The latter would seem to be a bold step, considering there were no books describing the plants around the College; but it is unlikely that this study of the nature of the plants was what we should to-day call botany. Probably it was only a comparison of our native plants with the species of southern Europe figured in the commentaries of Dioscorides and others, and aimed merely at imparting to the young men under training for the ministry some notion of simple remedial agents and their uses in disease. The commentaries and the ancient herbals were to the last degree untrustworthy as guides, either to botanical knowledge or medical practice. But it could not have been much more difficult for the first corps of teachers to adapt the descriptions given in the herbals and engravings of the plants of the Mediterranean to the species of New England, than to those of Old England. Manasseh Cutler was therefore probably correct in his statement made in 1785, —

"The almost total neglect of botanical inquiries in this part of the country may be imputed in part to this, that Botany has never been taught in any of our colleges." [1]

It was medicine instead of botany which was taught in the earliest days of Harvard College, and the study of the nature of plants must have been full of absurdities as well as crudities. The teachers in those days did not stick at trifles. It was the age when Gerard's Herbal, the best book at hand, described a certain tree as bearing barnacles, which falling into the water became thereupon geese.[2]

Works on natural history were full of marvels, and everything unknown carried possibilities of the greatest value. Exaggerated accounts of the wonder-working powers of roots, barks, and leaves from the lands of Central and South America led many who came to our coast to expect similar discoveries. Therefore they were not only ignorant, but filled with preconceived ideas; and, with total lack of discrimination, they had little difficulty in making some of our northern plants agree with the species of lower latitudes. Such were the available sources of information, and such the manner of employing them.

[1] Account of Indigenous Vegetables Botanically Arranged, p. 397.
[2] Gerard's Herbal (Johnson's edition), p. 1588.

As matter of fact, there was no attempt on this continent to give any systematic account of our botanical species until, in 1672, John Josselyn published his famous New England's Rarities Discovered, — a work which has received at the hands of one of our most careful botanists, the late Professor Edward Tuckerman, critical editing of the highest order. Our task lies, in point of time, considerably back of the latter part of the seventeenth century, and we are to deal with the rough notes of adventurers to whom New England was a land of hopes and trials but not of scientific study. Some of the directions to the ship's companies embarking on their voyages are, to be sure, considering the times, worthy forerunners of the instructions given by the English and other admiralties to-day; but, so far as systematic results go, these instructions did not bear much if any mature fruit. We are to see things through the eyes of sailors and settlers.

I. What impressions were produced by our vegetation on the early comers? In general, they appear to have been struck by the peculiar character of our forests and by the large spaces available for immediate cultivation. Thus Brereton, in his account of Gosnold's voyage in 1602, describes graphically the Elizabeth Islands in Buzzard's Bay, saying much about the plants found there, and then writes as follows: —

"But not to cloy you with particular rehearsal of such things as God and nature hath bestowed on these places, in comparison whereof the most fertile part of England is (of itself) but barren: we went in our light horseman from this island to the main, right against this island some two leagues off, where coming ashore, we stood awhile like men ravished at the beauty and delicacy of this sweet soil; for besides divers clear lakes of fresh water (whereof we saw no end), meadows very large and full of green grass; even the most woody places (I speak only of such as I saw,) do grow so distinct and apart, one tree from another, upon green grassy ground, somewhat higher than the plains, as if nature would show herself above her power, artificial." [1]

Of the same part of our coast, another of Gosnold's people, Gabriel Archer, wrote: —

"This main is the goodliest continent that ever we saw, promising more by far than we any way did expect: for it is replenished with fair

[1] 3 Massachusetts Historical Collections, viii. 89.

fields, and in them fragrant flowers, also meadows, and hedged in with stately groves," etc.[1]

The following bears date of 1622: —

"The country, in respect of the lying of it, is both champaign and hilly, like many places in England. In some places it is very rocky both above ground and in it: and though the country be wild and overgrown with woods, yet the trees stand not [so] thick but a man may well ride a horse amongst them." [2]

This primitive condition of our coast forests is so unlike what we see at the present time, when our trees are stunted and have underthickets, that it is worth while to inquire what is known about the aboriginal methods of forest treatment. This question is partly answered in William Wood's New England's Prospect, dated 1634:

"The next commodity the land affords, is good store of woods, and that not only such as may be needful for fuel, but likewise for the building of ships and houses, and mills, and all manner of waterwork about which wood is needful. The timber of the country grows straight, and tall, some trees being twenty, some thirty foot high, before they spread forth their branches; generally the trees be not very thick, tho' there be many that will serve for mill-posts, some being three foot and a half over. And whereas it is generally conceived, that the woods grow so thick, that there is no more clear ground than is hewed out by the labor of men; it is nothing so: In many places, divers acres being clear, so that one may ride a hunting in most places of the land, if he will venture himself for being lost: There is no underwood, saving in swamps, and low grounds that are wet, in which the English get osiers, hasels, and such small wood as is for their use. Of these swamps, some be 10, some 20, and some 30 miles long, being preserved by the wetness of the soil wherein they grow; for it being the custom of the Indians to burn the woods in November, when the grass is withered, and leaves dried, it consumes all the underwood and rubbish, which otherwise would overgrow the country, making it unpassable, and spoil their much affected hunting; so that by this means in those places where the Indians inhabit, there is scarce a bush or bramble, or any cumbersome underwood to be seen in the more champain ground. Small wood growing in these places where the fire cannot come, is preserved. In some places where the Indians died of the plague some fourteen years

[1] 3 Massachusetts Historical Collections, viii. 78.

[2] Mourt's Relation, 2 Massachusetts Historical Collections, ix. 51.

ago, it is much underwood, as in the midway betwixt Wessaguscus and Plimouth, because it hath not been burned; certain rivers stopping the fire from coming to clear that place of the country, hath made it unuseful and troublesome to travel through, insomuch that it is called 'ragged plain,' because it tears and rents the cloaths of them that pass."[1]

Thomas Morton says that the Indians burned the woods twice a year.[2]

There were other conditions, however, such as those existing just east of the Penobscot, concerning which Capt. John Smith wrote in 1614, —

"But all this coast to Pennobscot, and as farre as I could see eastward of it, is nothing but such high craggy cliffy Rocks and stony isles, that I wondered such great trees could growe upon so hard foundations. It is a countrie rather to affright than to delight one. And how to describe a more plaine spectacle of desolation, or more barren I knowe not. Yet the Sea there is the strangest fish pond I ever saw, and those barren isles so furnished with good woods, springs, fruits, fish and fowle, that it makes me thinke, though thee Coast bee rockie and thus affrightable; the Vallies, Plaines, and interior parts may well (notwithstanding) be very fertile."[3]

It is interesting to look with Captain Smith's eyes at Cape Cod, which, in his words, "is only a headland of high hills of sand overgrowne with shrubbie pines, hurts, and such trash." But these aside, we may conclude that the first comers found the forests more or less free from underbrush, with here and there ample clearings made by the Indians, and with broad meadows bordering the streams. Further, and what is of much more importance, the forests were more open than at the present time. If one goes to Plymouth in his spring search for trailing arbutus, he will notice the openness of the woods containing small-sized pitch-pine trees. But he cannot help feeling that the pines seen by the early visitors were much larger forest-trees than these are, and must have presented a totally different appearance, if they could have been kept free from troublesome underwoods by the annual fires started by the Indians.

[1] Wood's New England's Prospect (Prince Society's edition), pp. 16, 17.

[2] The New English Canaan (Prince Society's edition), book i. chap. xviii. p. 172.

[3] Description of New England, 3 Massachusetts Historical Collections, vi. 117, 118.

II. We come now to our second question. The utilization of the plants found by the early settlers is described in part in the lists which have come down to us, and these summaries may well be examined first; but, as will be noticed, there is occasional repetition, especially in regard to the forests.

There are many short catalogues of the more conspicuous plants met with near the shore by the early explorers. Some of these lists are interesting, but they present many obscurities. For instance, Brereton says of Elizabeth Island, where the company made a home for some time in 1602, —

"The chiefest trees of this island are beeches and cedars, the outward parts all overgrown with low bushy trees, three or four feet high, which bear some kind of fruits, as appeared by their blossoms; strawberries red and white, as sweet and much bigger than ours in England; raspberries, gooseberries, whortleberries, and such an incredible store of vines, as well in the woody part of the island, where they run upon every tree, as on the outward parts, that we could not go for treading upon them." [1]

Again, giving an account which appears in another part of his chronicle, —

"This island is full of high timbered oaks, their leaves thrice so broad as ours; cedars straight and tall; beech, elm, holly, walnut trees in abundance, the fruit as big as ours, as appeared by those we found under the trees, which had lain all the year ungathered; hazle-nut trees, cherry trees, the leaf, bark, and bigness not differing from ours in England, but the stalk beareth the blossoms or fruit at the end thereof like a cluster of grapes, forty or fifty in a bunch; sassafras trees, great plenty all the island over, a tree of high price and profit; also, divers other fruit trees, some of them with strange barks of an orange color, in feeling soft and smooth like velvet." [2]

In a brief note appended to his account, he gives, besides those already mentioned, —

"Cypress trees; . . . cotton trees; . . . tobacco, excellent sweet and strong; . . . ground-nuts, good meat, and also medicinable; . . . pease, growing naturally; flax; iris florentina, whereof apothecaries make sweet balls; sorrel, and many other herbs wherewith they make salads." [3]

[1] 3 Massachusetts Historical Collections, viii. 87.
[2] *Ibid.* viii. 88, 89. [3] *Ibid.* viii. 93, 94.

The following account is from the record of Waymouth's Voyage in 1605, north of Virginia and along the coast of Maine: —

"All along the shore, and some space within, where the wood hindereth not, grow plentifully, raspberries, gooseberries, strawberries, roses, currants, wild vines, angelica. — Within the islands grow wood of sundry sorts, some very great, and all tall, as birch, beech, ash, maple, spruce, cherry tree, yew, oak very great and good, fir-tree out of which issueth turpentine in so marvellous plenty, and so sweet, as our chirurgeon and others affirmed they never saw so good in England. We pulled off much gum congealed on the outside of the bark, which smelled like frankincense. This would be a great benefit for making tar and pitch." [1]

He adds: —

"A Brief Note of what Profits we saw the Country yield in the small time of our stay there. —

"TREES. Oak of an excellent grain, straight and great timber; elm, beech; birch, very tall and great, of whose bark they make their canoes. Witch-hazel, hazel, alder, cherry-tree, ash, maple, yew, spruce, aspen, fir. Many fruit trees which we knew not.

"HERBS. Angelica, a most sovereign herb; an herb that spreadeth the ground and smelleth like sweet majoram, great plenty; very good dyes which appear by their paintings, which they carry with them in bladders." [2]

Rev. William Hubbard in his General History of New England (1620–1680) includes a short account of our vegetation: —

"As for medicinal herbs, Gerard and Johnson, as well as Theophrastus of old, might have made herbals here as well as in any other particular country; the same trees, plants and shrubs, roots, herbs and fruits being found either naturally growing here that are known to do in the northern countries of the like climate of Europe, and upon trial have been found as effectual in their operation, and do thrive as well when transplanted; as the oak, walnut, ash, elm, maple, hornbeam, abundance of pine, spruce, &c.; also a kind of white cedar in many swamps; and such herbs as are common in England — elecampane, angelica, gentian, St. John's wort, agrimony, betony, and the like." [3]

[1] 3 Massachusetts Historical Collections, viii. 134.
[2] *Ibid.* viii. 157.
[3] 2 Massachusetts Historical Collections, v. 24.

Capt. John Smith, in his Description of New England (1614 or 1616), says: —

"The herbs and fruits are of many sorts and kinds, as alkermes, currants, or a fruit like currants, mulberries, vines, raspberries, goosberries, plums, walnuts, chestnuts, small nuts, &c. pumpkins, gourds, strawberries, beans, peas, and maize; a kind or two of flax, wherewith they make nets, lines and ropes, both small and great, very strong for their quantities."

"Oak is the chief wood, of which there is great difference in regard of the soil where it groweth, fir, pine, walnut, chestnut, birch, ash, elm, cypress, cedar, mulberry, plum-tree, hazel, sassafras, and many other sorts."[1]

Another account, bearing date 1629, goes more into detail: —

"This country aboundeth naturally with store of roots of great varietie and good to eat. Our turnips, parsnips, and carrots are here both bigger and sweeter than is ordinary to be found in England. Here are store of pumpions, cowcombers, and other things of that nature which I know not. Also divers excellent pot-herbs grow abundantly among the grasse, as strawberrie leaves in all places of the countrey, and plentie of strawberries in their time, and pennyroyall, wintersaverie, sorrell, brookelime, liverwort, carvell, and watercresses, also leekes and onions, are ordinarie, and divers physicall herbs. Here are also aboundance of other sweet herbs delightful to the smell, whose names we know not, &c. and plentie of single damaske roses verie sweete; and two kinds of herbes that bare two kinds of flowers very sweet, which, they say, are as good to make cordage or cloath as any hempe or flaxe we have."

"Excellent vines are here up and downe in the woods. Our Governour hath already planted a vineyard with great hope of encrease."

"Also, mulberries, plums, raspberries, corrance, chesnuts, filberds, walnuts, smalnuts, hurtleberies, and hawes of whitethorne neere as good as our cherries in England, they grow in plentie here."

"For wood there is no better in the world I thinke, here being foure sorts of oke differing both in the leafe, timber, and colour, all excellent good. There is also good ash, elme, willow, birch, beech, saxafras, juniper, cipres, cedar, spruce, pines, and firre that will yeeld abundance of turpentine, pitch, tarre, masts, and other materials for building both of ships and houses. Also here are store of sumacke trees, they are good for dying and tanning of leather, likewise such trees yeeld a pre-

[1] 3 Massachusetts Historical Collections, vi. 120.

cious gem called wine benjamin, that they say is excellent for perfumes. Also here be divers roots and berries wherewith the Indians dye excellent holding colours that no raine nor washing can alter. Also, wee have materials to make sope-ashes and salt-peter in aboundance." [1]

If we go farther north, and examine the interesting statements relative to Jacques Cartier's explorations, we find such notes as this: —

"The countrey is hotter than the countrey of Spaine, and the fairest that can possibly be found, altogether smooth, and leuel. There is no place be it neuer so little, but it hath some trees (yea albeit it be sandie), or else is full of wilde corne, that hath an eare like vnto Rie: the corne is like oates, and smal peason, as thicke as if they had bene sowen and plowed, white and red gooseberies, strawberies, blackberies, white and red Roses, with many other floures of very sweet and pleasant smell. There be also many goodly medows full of grasse . . .: we named it The bay of heat [Bay Chaleurs]." [2]

Taking from these and some other lists a few of the economic plants more systematically, we may gather the following facts: —

(1) Maize, in numerous colored varieties, was everywhere found under cultivation. Its modes of cultivation and harvesting have been fully treated of by Mr. Lucien Carr. In verifying his copious citations, I have been especially impressed by two things, — the thorough preparation of cleared ground for the plants, and the use of some small fish in each hill as a fertilizer. Another very interesting fact clearly brought out by Mr. Carr is the general preservation of corn in *caches*, where it was kept for winter use and for times of scarcity. Maize was generally parched before it was made into cakes.

(2) Beans, of a size and shape suggesting the flageolet, common in France, and unlike the Windsor or great bean of England.

(3) Gourd plants of many sorts, especially pumpkins, were in wide use. There are occasional references to the abundance in which they were found in the cultivated fields of the Indians. These, and possibly the wild beach-pea, were the chief vegetable foods of our northern aborigines.

[1] New England's Plantation (Higgeson), 1 Massachusetts Historical Collections, i. 118, 119.

[2] Hakluyt's The Principal Navigations, Voyages, Traffiques, and Discoveries of the English Nation (Goldsmid's edition), xiii. 92.

Tobacco, as an accessory food, must be mentioned. From the slight references to the sort of tobacco used, it would appear to have been the soft-leaved *Nicotiana Tabacum*, and not the harsher *Nicotiana rustica*. When Gosnold went on a journey of some days from his camp, the food left for those in charge of the camp gave out, and they were much frightened by impending famine. But, as Archer says, "we sustained ourselves with Alexander and sorrel pottage, ground-nuts and tobacco, which gave nature a reasonable content." The Alexander referred to was some umbelliferous plant, probably *Ligusticum Scoticum*, or Scotch Lovage, — a plant found also in the Old World, but often regarded by botanists as indigenous. The sorrel was *Rumex acetosella*, likewise from the Eastern Continent, but generally credited with having been naturalized here. The two plants seem, however, to be on the same footing, and both may owe their introduction to the landing of some earlier visitors. The pottage must have been poor enough to warrant the unlimited use of tobacco to give nature any degree of "reasonable content." The ground-nuts were the tubers on the roots of *Apios tuberosa*, usually smaller than hickory nuts, but sometimes described by the writers as being larger than eggs. If by "eggs" were meant hen's eggs, the tubers were larger than they are now generally found to be.

Attention must be called to the comparative ease with which the soldiers of Gosnold's garrison managed to find food in the plants around them. It is no trifling task to find vegetable food along our northern shores or in the woods. The earliest account of such an experience is that of the ship's company under Master Hore, consisting, we are told, of divers young lawyers and other gentlemen, one hundred and twenty in number, who arrived in Newfoundland to make their home upon this continent. They could not have been prepared by education or by their previous life to grapple with the difficulties which confronted them here when their stores gave out. They could not fish, and they used as food the fish-bones which they picked out of the osprey's nests. Doubtless they had been put to many a shift in London to get a dinner, but that was nothing to their last extremity, when they took to eating roots and bilberries, and, finally, one another.

The latest account which has come under my notice of the struggle against starvation in our northern forests is the thrilling

story of young Somerset's adventures in Northwestern British America. The party found absolutely nothing which would sustain life, much less give strength for their arduous endeavor. The only thing within reach was one which they did not try; namely, the inner bark of the spruces and pines. The store of starch and mucilage in this part of our evergreens is sufficient to sustain life for a time at least, and it has been so used in Scandinavia in time of famine. But the travellers in the land of the Muskeg, or northern peat-swamps, did not know of this scanty resource.[1]

Roger Williams's note may be cited in connection with the use of barks. In his Key into the Languages of New England, he says of a certain tribe that they are tree-eaters, —

"a people so-called (living between three and foure hundred miles West into the land) from their eating only . . . trees. They are men-eaters; they set no corne, but live on the bark of the chestnut and walnut and other fine trees. They dry and eat the bark with the fat of beasts and sometimes of men."[2]

The wild grapes along our shore demonstrate how great are diversities in tastes. To some persons our *Vitis Labrusca* and *æstivalis* have no redeeming qualities, while to others they are of pleasant flavor. When one sees a gang of laborers working on a New Hampshire highway indulging in the partially ripe berries of our summer grape, adding these as a delicious dessert to their noonday meal, it is possible to understand how Vinland came to be named, wherever it was, by sailors tired of the sea, or how Jacques Cartier from St. Malo, who knew what grapes were, called his island (now the island of Orleans) the Isle of Bacchus.

Most of the grapes, however, which one finds along the shore are sour enough to set on edge the teeth of the most undiscriminating consumer.

We have no information that the grapes were ever utilized by the settlers in the colonies for the manufacture of wine, but it seems unlikely that this ready source of wine for the Communion could have been overlooked.

In Virginia, Delaware, and New Jersey other food plants were not uncommon, — one in particular, the large globular, under-

[1] Somerset's Land of the Muskeg (London, 1895), *passim*.

[2] Chap. ii. Rhode Island Historical Collections, i. 34.

ground tuckahoe, being the most striking. It is likely that what is called *Okeepenauk*, and described as "roots of round shape, found in dry ground, which the inhabitants boil and eat," was the potato. But the discussion of Virginian and Southern plants does not properly come within our present range, although it might well do so, since the limits of northern Virginia were so indefinite to some of the early writers as to be included by them as a part of New England.

Fibre Plants. — None of these can be identified with certainty, though it is possible that the flax referred to by some was a wild species of *Linum*. It has been impossible for me to make a good fibre from any of our species. The plant bearing wool or cotton in pods was some *Asclepias*, worthless for spinning. The bast of both species of *Apocynum* might have been used, and also the inner bark of linden and black-spruce trees may have served as the source of twine for canoes, — just as is the case nowadays with our northern tribes who use the latter.

For dyeing and tanning, the barks of sumach and other astringent plants were employed to good purpose.

For the manufacture of oil, crushed walnuts — that is, hickory-nuts — were used; and also acorns, if we may judge of the New England residents from those living a little farther south.

Remedial Agents. — Sassafras, in high repute.

Sarsaparilla, which from the descriptions may have been *Smilax rotundifolia*, and other thorny species.

Snakeweed, which Governor Winthrop always carried in his pocket, was probably the root of *Nabalus*.

III. Lastly, what were the changes effected by the coming of the early settlers?

A comparison of the lists which we have just scanned with the more systematic catalogue given by Josselyn, fifty years later, shows that a large number of vegetable intruders speedily made their way hither, and have here remained as weeds and wayside vagrants. Some of them have held closely to this part of New England, as Professor Gray has shown in his enumeration of the introduced plants, printed in Dr. Winsor's Memorial History of Boston. Others have gone forward into the lands occupied by advancing emigrants, and are now domiciled in the far West. Such comparison,

although botanically interesting, is too technical for the present communication, and is therefore relegated to another publication.

All the accounts of the early New England plants which I have been able to examine are replete with material for study. The notices by Hariot and Strachey, the story of the Popham Colony, the records by Captain John Smith, who named New England and our Charles River, the history of Champlain's voyage, the Jesuit "Relations," and Roger Williams's "Key" are all inviting from this point of view.

It will be seen from this rapid survey of a part of the statements regarding the plants first noted on our shores, that the subject is not wholly uninviting to naturalists. I shall be glad if the cursory account now given may lead our historians, on the one hand, to fill out this imperfect sketch, and on the other hand may lead some of our local botanists to aid in a more satisfactory identification of the constituents of our primeval vegetation.

At the close of Dr. Goodale's paper there was a discussion concerning the names under which certain plants and trees might be identified in the early accounts; the habitat of certain flowers, and the probable reasons why certain trees and plants which must have been seen by the explorers of New England, and which were entitled to some sort of recognition by such close observers, were not mentioned in their accounts of the country. In this discussion, Dr. GOULD, Mr. HENRY WILLIAMS, Mr. SAMUEL JOHNSON, and Mr. ANDREW MCFARLAND DAVIS participated.

Mr. ANDREW MCFARLAND DAVIS read the following certificate of Governor Shirley's Protestantism which is to be found in the Records of the Superior Court of Judicature:[1]

Govr Shirley's Qualification.

"Memorandum, This day being the first of April 1746, His Excellency William Shirley Esqr Collonel of a Regiment, to be forthwith raised for the Defence of Cape Breton, came into Court between the Hours of nine & twelve of the clock in the forenoon and produced a certificate of his having receiv'd the Sacrament of the Lords Supper according to the Usage of the Church of England, immediatly

[1] 1740–1745, xv. 266, 267.

after Divine Service & Sermon, on the thirtieth Day of March last, signed by the Rev[d] Mr Roger Price, Minister & Mr George Cradock Church Warden, and made proof of the truth thereof by the oaths of two credible Witnesses namely Mr John Gibbons & Mr Silvester Gardner; pursuant to the Act of Parliament in that case made & provided;

The said Governour Shirley also at the same time in open Court, took the oaths appointed instead of the oaths of Allegiance & Supremacy, and likewise made, repeated & subscribed the declaration appointed by Law."

Mr. DAVIS then said: —

It will be remembered that after the Louisburg campaign Shirley was rewarded by an appointment as colonel in the British Army. Under the Test Act, the qualifications set forth in the above entry in the records of the Superior Court of Judicature were required of all officers under the government, civil as well as military. It would seem, therefore, that a Royal Governor of a province might have dispensed with the prerequisite of furnishing evidence that he had received the Sacrament of the Lord's Supper according to the usuage of the Church of England, in order that he might be deemed qualified for a commission as colonel in the Army. This entry would indicate, however, that such was not the case.

FEBRUARY MEETING, 1896.

A Stated Meeting of the Society was held in the Hall of the American Academy of Arts and Sciences, on Wednesday, 19 February, 1896, at three o'clock in the afternoon, the President in the chair.

After the Minutes of the last Meeting had been read and approved, Dr. Gould spoke as follows: —

We have met this afternoon under circumstances of exceptional bereavement, and it is my sad duty to announce the death of three of our members who, within the brief interval of a single month, have been removed from our small company of one hundred.

At our meeting last month, the first tidings which met me on entering this Hall told of the decease of Mr. Brimmer, whose useful and benignant life had closed during the preceding evening. Not ten days later, on the 23d January, came the sudden death of Dr. Wigglesworth. On Tuesday of last week we were called to lament the loss of Dr. Slade, who during the last three years had rendered assiduous, faithful, and disinterested service to the Society as a member of its Council. In four short weeks these three good men have been taken from our community, to which they were so helpful, — each in his own especial way, — and which so much loved and honored them. Their services and good deeds will be commemorated later, in the most fitting way within our power. Each of them had claims upon the recognition and gratitude of Massachusetts which could not be overlooked, even were nothing uttered here. Yet this Society finds a melancholy satisfaction in commemorating the services and character of its departed members, who conferred new honor upon their lineage, and upon the early New England stock from which they sprung.

The many distinguished positions which Martin Brimmer has occupied in this community, his many public-spirited acts, and the many directions in which his personal influence for good was continually felt, made him especially well known to the citizens of

Boston, notwithstanding the unassuming and modest traits which notably marked his character, and which his biographers cannot fail to record as among its peculiar charms.

Dr. Edward Wigglesworth, seventh of the name in as many successive generations, was descended from Edward Wigglesworth, who came to Massachusetts in 1638 at the age of thirty-four, bringing with him his son Michael, seven years old, who became the noted author of the "Day of Doom." From this last-named sprung a family which was conspicuous from the beginning among the scholars of New England. In 1652 he was a Fellow of Harvard College, as were also his son and grandson, each of whom filled the chair of Hollis Professor of Divinity. These and the later ancestors of our colleague, bearing the name, were graduates of Harvard, where he himself graduated in 1861.

The Civil War having then broken out, he enlisted at once as a private soldier in the Forty-fifth Massachusetts Regiment. At the expiration of the term of his enlistment he served on the Sanitary Commission, and later still in an army hospital as surgeon of volunteers.

After long study of his profession at Paris and Vienna, he devoted himself principally to the study of Dermatology, in which he rose to high professional eminence, and became one of the leading authorities. In the want of proper facilities for the care of patients, he established and conducted at his own expense an institution which he maintained until he had the satisfaction of seeing it incorporated into the City Hospital. He was liberal and generous to an exceptional extent, a constant friend and benefactor of the poor and the suffering, and an unselfish practical supporter of all movements in behalf of the true progress of the community, which came to his knowledge. Many will now miss the thoughtful care of an unknown friend.

Dr. Daniel Denison Slade was a descendant of the sturdy soldier whose name he bore, and whose part was so conspicuous in the first half-century of our New England history. The wife of Major-General Denison was a daughter of Gov. Thomas Dudley; their daughter Elizabeth was wife of President John Rogers, of Harvard College, and from this union came our colleague. Dr. Slade

graduated in the Class of 1844, and studied medicine for several years in Paris. After some years of professional practice in Boston, he accepted a professorship of Zoölogy in Harvard University. After filling this office for eleven years, he exchanged it for the position of Lecturer on Osteology, where he continued for nearly eleven years more and until his death. For some time his health had been seriously impaired; but he bore disease and suffering patiently and bravely, and when death came it was only after three days of acute illness.

Apart from his professional and scientific pursuits, Dr. Slade was strongly interested in antiquarian studies, especially in those relating to our early New England history. He was quiet and modest, and mingled comparatively little with general society; but his gentle, kindly nature was always manifest. Nearly sixty years of intimate acquaintance with him, at school, in college, and in later years, enable me to bear witness to the amiability, loyalty, and sincerity of his character. His friends were warmly attached to him, and it would be long before one could find a more lovable man.

The Hon. George S. Hale followed with a brief but feeling tribute to the memory of his friend Mr. Brimmer. He alluded to the symmetry and even development of Mr. Brimmer's character, to the dignity of his bearing, the courtesy of his manners, and the purity of his motives. The world was made better by the life of such a man.

Mr. Hale also paid a warm tribute to his friend and classmate Dr. Slade.

Mr. William W. Goodwin spoke briefly of Mr. Brimmer's relation to the Old Colony. His grandmother on his father's side was Sarah Watson, daughter of Colonel George Watson, of Plymouth, and Eliza Oliver, daughter of Judge Peter Oliver, of Middleborough. She married Martin Brimmer, of Roxbury. Colonel Watson was born in 1718, and died in 1800. He was one of the most eminent citizens of Plymouth, and was universally respected. He was a devoted

Loyalist, at least before the open outbreak of war in 1775; and in 1774 he accepted the office of Mandamus Councillor under the Crown. Bancroft thus describes a scene in the Plymouth meeting-house: —

"The people of Plymouth were grieved that George Watson, their respected townsman, was willing to act under his [the King's] appointment. On the first Lord's day after his purpose was known, as soon as he took his seat in meeting, his neighbors and friends put on their hats before the congregation and walked out of the house. The extreme public indignity was more than he could bear. As they passed his pew, he hid his face by bending his head over his cane, and determined to resign." [1]

Another daughter of Colonel Watson, Elizabeth, was a woman of great beauty; she married Thomas Russell, a distinguished merchant of Boston, and afterwards Sir Grenville Temple. Another daughter, Mary, married Elisha Hutchinson, son of Governor Thomas Hutchinson. Colonel Watson and his second wife (the one above mentioned) had their portraits painted by Copley; and these pictures were in Mr. Brimmer's possession. Mr. Brimmer was thus, through his grandmother, descended from George Watson, the earliest settler in Plymouth of the name of Watson, who came there before 1633. John, a grandson of George, and the father of Colonel Watson, was reputed to be the most wealthy man in the Old Colony.

Martin Brimmer, the grandfather of our associate, was active in developing the manufacturing interests of Plymouth, and was interested in the iron-works on the Town Brook. He made in Plymouth the first illuminating coal-gas used in this country. He was also engaged in business in Freetown. His son, George Watson Brimmer, designed the church of the First Parish in Plymouth, which was built in 1831, and was burnt a few years ago.

[1] History of the United States (edition of 1858), vii. 105.

The plan of this wooden church was nearly the same as that of the old stone Trinity Church in Summer Street, Boston, which was also designed by Mr. George Watson Brimmer.

Mr. ABNER C. GOODELL, JR., spoke as follows: —

I trust I may be excused for calling the attention of the Society to the fact, which has not been commented upon either here or at the recent meeting of the Massachusetts Historical Society, that Mr. Brimmer's death closes the male line of descent from the original immigrant of the same name. Thus becomes extinct a family name distinguished in the annals of Boston for four generations.

The first Martin Brimmer, though not of the little band of Huguenots from Rochelle who, after the Revocation of the Edict of Nantes, found an asylum in the New World, was a member of the congregation that worshipped in School Street, under the ministrations of the Rev. Andrew Le Mercier. In 1730 an Act[1] was passed for the naturalization of Le Mercier and other Huguenots of Boston, in the petition[2] for which Martin Brimmer's name was included, and was the last signed to it, — he describing himself as a German Protestant from Hanover. I have seen him elsewhere described as a Walloon. We have the authority of our associate Mr. Henry E. Woods for assigning the year 1723 as the approximate time of his immigration.

Without detracting from the merits of our English ancestors, it may well be doubted if of the old families of Boston seven more famous names can be mentioned than seven which I have taken at random from the comparatively short list of persecuted Protestants from the continent of Europe to whom I have alluded. What would the history of Boston lose of its peculiar savor, and how barren of patriotic interest would it become, were it deprived of the names of Bowdoin, Faneuil, Revere, Sigourney, Johonnot, Chardon, and Brimmer! Yet the death of our highly esteemed associate forces upon us the sad reflection that one of these historic Boston names is extinguished.

[1] Province Laws, ii. 586, 595.

[2] See pp. 241, 242, *post*.

Mr. Henry E. Woods said: —

Mr. President, — Apropos of what Mr. Goodell has said, it has been remarked that Mr. Brimmer was the fourth bearing the name Martin. As Registrar, I had occasion to look into his ancestry at the time of his nomination to membership in our Society, and it is my impression that there were five Martin Brimmers, but without my notes I cannot positively say that they covered five generations.[1] Mr. Brimmer was eligible to membership through the Sigourney family, the first Martin Brimmer having married a daughter of Andrew Sigourney, whose parents came to Boston a few years prior to 1692, the date of ancestral residence required by our By-laws.

Mr. Edward Wheelwright paid this tribute to the memory of Dr. Slade: —

By the death of Daniel Denison Slade The Colonial Society of Massachusetts has lost a worthy and useful member. One of the Founders of the Society, he was until recently a member of the Council. His natural inclination toward historical research was doubtless fostered, soon after his graduation from Harvard, by his employment as assistant to the historian Jared Sparks. He had already had experience as an original chronicler in keeping a diary, with unflagging perseverance, during the whole of his college life. No day during those four years was allowed by him to go by without a line. He would sometimes bring a volume of this record to the meetings of his Class in after years, and read passages from it both interesting and entertaining, enlivened as its pages were by the writer's peculiar and often unconscious humor.

The members of this Society do not need to be reminded of the interesting papers he has read to them. He read others before the Bostonian Society, and published still others in various magazines and periodicals, taking care to have them worthily illustrated. He inherited valuable historical papers and memoranda, and delighted to share with others the information to be derived

[1] There were but four generations of Martin Brimmers, — two having been in one generation, one having died in childhood.

from them. Only a week before his death he sent me a package of these papers, which he thought might be useful to me in some researches I was making. Nor were his literary labors confined to historical subjects. In the early years of his practice as a physician he frequently wrote for medical journals, and was the recipient of several prizes for essays on medical subjects; while in after years he often wrote and published articles upon topics connected with natural history, agriculture, and horticulture. The latest of his writings on the latter subject was a small volume entitled The Evolution of Horticulture in New England, published in the closing month of the last year. Another publication, several years earlier in date, was the record of an excursion on horseback in Western Massachusetts, in company with several of his daughters. Most of this work was done, moreover, amidst the duties of a professorship in Harvard College, in the intervals of more than one severe illness, and while for many years in a condition of health so delicate that it is a marvel to his friends and medical advisers that he lived, as he did, to a ripe old age.

Dr. Slade held an honored place in the profession of his choice, and was a pioneer in the effort to raise the standard of education and practice in veterinary surgery, having made a special study of the subject at the celebrated school of Alfort, in France. He was highly esteemed by his fellow physicians, and found among them some of his dearest and most attached friends. Dr. Richard M. Hodges, whose death was almost simultaneous with his own, is reported to have said in almost his last words, "Give my love to Slade;" while Slade, unaware of his friend's condition, but conscious that his own end was near, was almost at the same moment urging that Dr. Hodges should be sent for. Dr. Francis, of Brookline, his classmate as well as his intimate friend and trusted adviser, attended him in his last illness.

Community of tastes, and especially a common love of Nature in her wilder aspects, made Dr. Slade a valued friend to his classmate Francis Parkman, and the historian's chosen companion in several of his explorations of the wildernesses of Maine and New Hampshire. In his later years Parkman delighted to talk over with Slade the incidents of their early travels; and in the drives which, when debarred from walking, he was accustomed to take in the neighborhood of their respective residences, in answer to the

question "Where shall we go?" almost invariably answered, "Let us stop at Slade's." Dr. Slade's love of Nature and his fondness for the simplicity of rural life led him to purchase "an abandoned farm" near Lake Winnipiseogee, where he delighted to pass a portion of the summer with his family, who fully shared his tastes. Of this farm he wrote a description in letters which were published in The Nation. This love of Nature extended to all created things, and made his position as Assistant in Osteology in the Agassiz Museum very congenial to him. The loving care with which he handled and arranged his specimens was delightful to witness.

Personally I have lost in Slade a very dear friend, one to whom, in the performance of certain duties that have been laid upon me, I have been accustomed to look for sympathy, and have never looked in vain. I first knew him when we entered Harvard College together, in the Class of 1844. During the Freshman year we boarded together at the same table, and roomed in adjoining houses in the Appian Way. I met him again in Paris when he was a medical student there. After he went to reside at Chestnut Hill I saw him less frequently than before, but was always sure of finding him at the annual meeting of our Class at Commencement. Never was he absent except when seriously ill. In the fast narrowing circle of his early associates he will be greatly missed.

Dr. Slade was a delightful companion. In his own inimitable way he was not only witty himself, but the cause of wit in others. Beneath an apparently impassive and somewhat sluggish exterior there lay, not always concealed, a warm and generous heart, a noble and chivalric spirit. His college associates were wiser than they knew when they gave him the title of "The Good Count." He was in truth, though after a simple and rustic fashion, one of Nature's noblemen. There was in him a charming union of naïveté and shrewdness, of frankness and reticence, of ambition and modesty, and with all and above all a steadfast loyalty to truth, to duty, and to friendship.

The Hon. JOHN LOWELL then spoke at considerable length touching the relations which existed between Dr. Slade and himself as neighbors. He had listened to the tributes which

had been paid by classmates and friends, and as he listened he had felt that among those present no person was better entitled to bear witness to the many winning features in the character of our late associate, no person was better prepared to understand the justice of the eulogiums which had been pronounced upon his life and his work, than himself. Years of friendly intercourse as neighbors had ripened the friendship which existed between them; not as neighbors in a city block where one may live for years with scarcely any knowledge of the family next door, but as neighbors in suburban territory where friendly intercourse was constant, and under circumstances which compelled him to appreciate more and more, from day to day, the rich gift of the personal friendship which was thus bestowed upon him. The loss of such a man must be deeply felt by those who had come closely in contact with him, and by the Societies of which he was a member.

Dr. Charles Montraville Green spoke of the life and character of Dr. Edward Wigglesworth: —

It is not for me at this time, Mr. President, to attempt to present a just and worthy tribute to the life and character of our late associate: that sad duty will be performed by him who will be chosen to prepare, with deliberation, the Memoir for our Transactions. I wish rather to give expression to my sense of the great loss which this Society and this community have sustained in Dr. Wigglesworth's untimely death. I say untimely, because, although he had accomplished much in twenty-five years of active professional life, he was still an earnest worker in the advancement of medical science, and in the varied philanthropic pursuits to which he had long devoted himself.

Graduating from Harvard College in 1861, and from its Medical School in 1865, Dr. Wigglesworth spent five years in Europe, chiefly in Vienna, Paris, and London, fitting himself for his chosen specialty, Dermatology. At this time specialism in all branches of medical science was in its infancy in this country; and on his

return to Boston Dr. Wigglesworth devoted himself with energy and enthusiasm to his chosen field, becoming one of the pioneers in his department of practice. He opened a free clinic for diseases of the skin, and maintained it at his own expense until special departments in Dermatology were established in connection with the larger medical charities of this city. Subsequently he was appointed to the Department for Diseases of the Skin at the Boston City Hospital, and for many years has been its head. At the time of his death he had just completed his stated period of service for the year. For several years he was an instructor in Dermatology at the Harvard Medical School, and to this institution he long ago gave his valuable collection of models. In his earlier years Dr. Wigglesworth was a frequent contributor to periodical medical literature, and was an active worker in the various medical societies. He gave much time and effort to the establishment of the Boston Medical Library Association, and served until his death on its executive committee. He did good service as a member of the committee which raised the large sum of money required to provide the present seat of the Harvard Medical School. Indeed, it may be said, in the words of one of his contemporaries, "that he was always ready to encourage by word and deed, by suggestion, advice, and gift of money, all worthy objects demanding the active interest of the public-spirited physician; and his assistance was usually sought both in the inception and in the promotion of such objects."

In his private life Edward Wigglesworth was upright, loyal to his high ideals, tender, chivalrous. Generous to a fault, yet was his giving unostentatious. Of warm-hearted nature, and brilliant intellect, he was a delightful companion. He will be remembered as an accomplished physician, a public-spirited citizen, and a generous and lovable friend.

Mr. Abner C. Goodell, Jr., gave the following account of the Third Volume of the Massachusetts Colony Records, about which there has been a diversity of opinion among historical students and scholars: —

From the time of the division of the General Court, in 1644, into two separate branches, the House of Deputies conformed more

and more to the pattern of the House of Commons. They elected a Speaker, and chose a Clerk, and began to keep a Journal distinct from the records of the Secretary. Unfortunately, all these Journals save those from 1644 to the end of the first session of 1657 are lost, — probably in the conflagration of 1711 or 1747, both of which wrought such havoc among the records in the Town House, or old Court House on King Street. The single printed volume of these Journals is erroneously included with the printed Records of the Governor and Company, and introduced by some incomprehensible but certainly mistaken explanation of its want of harmony with the other records, which are the legislative records of the upper branch, and were kept by the Secretary of the Colony. During the first General Court, under the new system, the Journal was kept with diurnal entries under appropriate headings. This practice was discontinued the next year. At first, against all votes and ordinances passed in concurrence, the minute was made in the Journal "by both;" and later, "*per curiam.*" This practice seems to have been wholly discontinued after the May session of 1651.

In the October session of 1648 the manner of keeping records by the Secretary and the Clerk of the House was further regulated. All bills, laws, petitions, etc., passed in concurrence, and voted upon last by the Magistrates, were to be kept by the Governor until the end of the session; and, in like manner, all such papers last acted upon by the House were to remain with the Speaker. At the close of the session the assembled Court, or a committee of both branches, in presence of the Clerk and Secretary, were to deliver them to the Secretary to be recorded. This recording was to be finished in one month, after which the Clerk was to be allowed another month in which to transcribe this record into his book of copies. The Secretary's set was to be the official record.

Both sets of these books of record, which, by the same order, were to include, or to be accompanied with, other books containing all previous legislation not already ordered to be printed, were probably consumed with the House Journals. The records of the Magistrates or Assistants, and many if not most of the files, however, seem to have escaped the conflagration. These files were in two groups, — one composed, in part at least, of "such bills, orders, etc., which have only passed the Magistrates," and which

were to be given into the custody of the Secretary to be kept on file; and another of similar papers, "such as have only passed the Deputies," and which were to be delivered to the Clerk of the House, to be filed and kept by him, in like manner.

The vote requiring that the orders, etc., enacted remain in the hands of the Secretary and Clerk of the House, respectively, until the end of the session was repealed in the first session of 1650, and the Clerk was ordered to send to the Secretary, from time to time, immediately after their passage, such bills, etc., as had been concurrently enacted, and voted upon last by the House. This substantially became the settled practice of the Legislature down to the adoption of the Constitution.

Mr. John Noble said that he had recently discovered in the Suffolk Court Files a fragment[1] in the handwriting of Edward Rawson, which might prove to be interesting in connection with this matter.

Mr. Andrew McFarland Davis then said: —

I wish to submit for the consideration of the Society a curious blackmailing letter which was sent to Governor Shirley, in May, 1749. The anonymous writer, under threats of burning Shirley's country-house and of the commission of other acts of destruction of a similar nature by the band of conspirators in whose name he professes to speak, seeks to extort money from the Governor. Unless a motive is to be found in the sentence in the letter in which the writer alleges that all of those in whose name he pretends to speak had served in Shirley's regiment, and that not half of them had been paid for their services, there would not seem to be any special reason why the Governor should have been selected as a victim by the blackmailers. The original letter is on file at the Suffolk Court House, and from the indorsement it would appear that James Williams was indicted as the writer of it, and pleaded not guilty. There are, however, no other papers connected with the proceeding, and I have not found any reference to a trial in the Records of the Court.

The letter is as follows: —

May it plese your Exelelcey Your not complying with ours of May ye 20th 1749 Soterday which we left in your yard nixt ye Bookbinders

[1] For the full text of this document see *post*, v. 116–132.

Shop which we beleve you have Seen which has mad sum disspute amoung us for Sum was for going and firing your fine cuntry house without *eney* more Delay but Sum of us thot mabe you had not found it and therefore we Send you these fue lines which we are Shore you will find and by these you may find ye other by enquire tharefore Shall oneley ashore your Exelencey Except all that is in the other leter is preformed Which is that you take five hundred pound New tenor and and Carry the Same to that tree that Stands on your Right hand agoing over ye Nack abought half way over and Sum Distance out of ye highway and thare hid ye same close under ye Root of ye tree and cover it over with Durt So that it may be had close and that we may git it when we plese and with out Danger for we Shall not be all thare at a time So that thare will be a Nough left to full fill all that we have promissed in our other leter ye Sum of which is that if you Do not take five hondred pound New tenor with out Eaney privet mark of whot Nater so Eaver or *Eney* of it none nor Supspected but all good and carri it and hide ye Same whare you are diricted above on tuesday night which will be may ye 30 day 1749 then if you Dont then we will Shorley burn all yuore fine Countrey Seate and there on to be longing with out fail and other places which will be a disadvantege to you and cuntry to for we will not be Bobled No more by your Exelencey then we will by Esqr Wills for all your good Counsel to him and your proclimation for if it was teen times as much as it is we Should mind it no more then the Durst under our feet or the b burning his house and him in the fray which we will as Shourly go as he is now alive if he dos not on our nixt Sumons proform which Shall Not be long we sware by the liveng God if it is his will that we or eney of us live long anugh and he may be glad to have ye Sumons before the fier for ye slig he pot on our forst but if he slits ye next he Shall fare ye worst for no proclimations with eney Considirations Shall avale aneything but the proformence of ye above for if your exelency Should Set a watch Round your house in the Cuntry or town of *eney* quantity of men Sum of us Shall be there for we have all sarved under your Exelencey^s^ Ridgment in one place or other and Sum have bin disbanded and Naver halfe of us half paid and we Shall be Ready foreaver Round your Elboe to watch your motions we all have bound under Selves under a Solom and furm oth to stand by etch other in life and in death foreaver & eaver amen.[1]

It appears from the language of this letter that it was not the first communication of this character which had been sent; and we find, upon examining the records, that on the twenty-first of April,

[1] Suffolk Court Files, vol. ccccix. no. 65,227.

1749, the Governor submitted the following message to the consideration of the General Court: —

Gentlemen of the Council & House of Representatives. One of the members of His Majesty's Council has laid before me a villainous paper, importing a wicked conspiracy for robbing him of part of his estate, by extorting a sum of money from him & threatening him with the burning of his house, warehouses, and vessels, and the murdering of his person in case of his refusal to comply with their demands.

Gentlemen, this being the first instance of this kind of execrable villany attempted in this Province, it highly imports this Legislature to make provision for preventing & punishing the same attempts for the future. Wherefore I desire you would immediately take the matter into consideration & do what you judge necessary before you rise.[1]

The Governor's message was referred to a joint Committee, and their report, which was prepared by Samuel Welles of the Council, was submitted the next day. The Committee recommended that a Proclamation should be issued offering a reward of Two hundred pounds, bills of the last emission, to be given to any person who should inform or discover one or more concerned in this wicked conspiracy, so that he or they might be convicted. If the informer should prove to have been an accomplice, he was to be forgiven. The Governor was recommended to insert in his Proclamation the sum and substance of the anonymous letter, and verbatim extracts from the impious, insolent, and inhuman language used therein, so that his Majesty's good subjects might be stirred up to join in bringing to exemplary punishment the profligate and abandoned wretches who were concerned in this wicked and impudent combination. It was also recommended that a Bill should be prepared for the prevention of such abominable and dangerous crimes in the future.

The report was read and accepted, and a joint Committee was appointed to draft a Bill in accordance with the suggestions therein contained. There is nothing in the Governor's message or in the report of the Committee to indicate what member of the Council was the recipient of the "villainous paper;" but in the letter to Governor Shirley the writer indicates his determination not to be "bobled" any more by his Excellency than by "Esqr Wills."

[1] Province Laws, iii. 449, 505.

It may be inferred from the language used that "Wills" had at that time already received a communication from the same writer, to which he had not responded in such a way as to meet with the writer's approval. There can be but little doubt that the "Esqr Wills" of the letter must have been Samuel Welles, a member of the Council,[1] and the writer of the report which we have just been considering.

On the first of June, 1749, the Governor, in his message to the General Court, alluded to "an anonymous letter" sent to him to demand his laying a sum of money for the writer in a secret place. If the Governor should not comply with this request, the writer threatened to burn the Province House and Shirley's own house in the country. This letter, the Governor adds, "I shall order to be laid before you & desire you will without delay prepare a bill for suppressing this kind of wickedneſs & punishing the authors as they deserve."

The Court did not act promptly in the matter, and on the third of August the Governor laid before them a new instance "of the same kind of villany that was twice lately practised in this Province for extorting money by threatening gentlemen of substance with the destruction of their estates and persons in case of refusal to comply with the demands of these miscreants." This communication incited the Legislature to action, and on the fourth of August a joint Committee was appointed to prepare a Bill for preventing and punishing such pernicious practices in the future. The action of this Committee is to be found in Chapter 7 of the laws of 1749–50.[2]

Mr. ABNER C. GOODELL, Jr., presented a copy of a Proclamation by Governor Hancock, and said: —

MR. PRESIDENT, — The interesting episode which our Corresponding Secretary has brought to light, and the formalities attending the issuing of the Governor's Proclamation, may be contrasted with a similar proceeding on a like occasion after the adoption of the Constitution of the Commonwealth.

[1] Palfrey (History of New England, v. 567) gives his term of office 1747, 1748. He was, however, a member of the Council in 1749.

[2] Province Laws, iii. 479.

In 1783 an anonymous letter was found at the door of one of the proprietors of Long Wharf, declaring a determination to set on fire the shops and warehouses extending along the wharf, unless the Proprietors forthwith signified in the newspapers their purpose to cause the removal from the wharf, or the closing of the business, of "all shop keepers, retailers, grog-sellers, etc."

Upon this, Governor Hancock, in the recess of the General Court, of his own motion apparently, and without even the advice and consent of the Council, issued a Proclamation for the discovery and apprehension of the author or authors of the threatening letter, "promising a reward of one hundred pounds to any person or persons who shall inform against, or discover, any one or more concerned in this wicked design." The Proclamation, which bears date 27 August, 1783, may be read in full in the forthcoming most interesting and valuable Supplement, by our associate Mr. Edwin M. Bacon, to the "Early Laws of Massachusetts" now being published by the State in a new edition under authority of Chap. 104 of the Resolves of 1889. The object of Mr. Bacon's Supplement is to supply the lamentable omissions in the official series. This he has not only admirably accomplished, but in so doing has revealed historical data never availed of by any historian, and of the greatest interest and value.

The text of the Proclamation is as follows: —

FOR APPREHENDING THE AUTHOR OF A THREAT TO BURN LONG WHARF IN BOSTON UNLESS SHOPKEEPERS CEASE BUSINESS THERE.

By his Excellency John Hancock Esqr

Governor of the Commonwealth of Massachusetts

A Proclamation.

Whereas an anonimous letter was found at the Doors of one of the Proprietors of the Long-Wharf, in Boston, this morning, directed to Mr. Giles Alexander, wherein the writer declares "That it is determined to set the Long-Wharf on fire, except all shop-keepers, retailers, grog sellers &c cease to continue thereon as it is thought that it is a detriment to the shop-keepers and retailers of the town in general, to suffer any of that denomination to set up on Long-Wharf; and it is a pity that the wholesale merchants should suffer through their means, which must be the case if they cease not. If you mean to cause them to move off, make it known in

one of the news-papers this week. If you slight this warning you'll have no other."

Which attrocious crime has been represented to me by the Proprietors of the said long-Wharf, praying for the interposition of the Government, in order to discover the author of it: And inasmuch as such an open and flagrant violation, both of the laws of God and man, hath a direct tendency to subvert all civil order and Government, and to render the lives and properties of the subjects of this Commonwealth, altogether precarious:

I have therefore thought fit to issue this Proclamation, hereby requiring all officers, civil and military, and all other subjects within this Commonwealth, to use their utmost endeavours for descrying, seizing, and bringing to justice, the author or authors of the infamous letter aforesaid, or any of his or their accomplices;—hereby also promising a reward of ONE HUNDRED POUNDS to be paid to any person or persons who shall inform against, or discover any one or more concerned in this wicked design, so that he or they may be convicted.

Given under my hand, at Boston, *the twenty-seventh day of* August, *in the year of our Lord, One thousand seven hundred and eighty-three, and in the eighth year of the independence of the United States of America.*

John Hancock.

By his Excellency's command
John Avery, Secretary.

A. Hudson Pinx. J. Faber fecit.

The Honourable Charles Knowles Esq.r
Vice Admiral of the Blue Squadron of His Majesty's Fleet
(and GOVERNOUR of His) MAJESTYS Island of Jamaica.

A W Elson & Co, Boston

Engraved for The Colonial Society of Massachusetts from a rare print in the possession of Frederick Lewis Gay, Esquire.

MARCH MEETING, 1896.

A STATED MEETING of the Society was held in the Hall of the American Academy of Arts and Sciences, on Wednesday, 18 March, 1896, at three o'clock in the afternoon, Dr. BENJAMIN APTHORP GOULD in the chair.

The Records of the February Meeting were read and approved.

Mr. JOHN NOBLE read the following paper: —

NOTES ON THE LIBEL SUIT OF KNOWLES *v.* DOUGLASS IN THE SUPERIOR COURT OF JUDICATURE.

1748 AND 1749.

The story of the Knowles Riot, as it has been called, a somewhat famous event in our Provincial history which gave rise to the suit of Knowles *v.* Douglass, is more or less fully told in all historical accounts of Boston.[1] Many papers pertaining to this suit are among the Early Court Files of Suffolk, which fill out various details of the Riot, and give a life and color and vividness that can come only from the testimony of eye-witnesses and actual participators in the occurrences. So much of the story of the Riot as is necessary to an understanding of the suit may be briefly told.

[1] Douglass's "Summary," Serial Number 15; pp. 235–238, text and *note*, of loose sheets, without date, among Suffolk Court Files (see p. 227, *post*); and i. 253 and *note* (edition of 1749, see p. 218, note 1, *post*); Snow's History of Boston, p. 238 *et seq.*; James Grahame's History of the United States, ii. 186–188; Bancroft's History of the United States (edition of 1840), iii. 465, 466; Palfrey's History of New England, v. 88 *et seq.*; Memorial History of Boston, chap. xvi.; Narrative and Critical History of America, v. 148 *et seq.*; and New England Historical and Genealogical Register for October, 1874, xxviii. 451–466. See also Boston Weekly Post-Boy, 23 November, 14 and 21 December 1747, and 4 January, 1748; Boston Evening Post, 14 and 21 December, 1747; Boston Weekly News-Letter, 17 and 31 December, 1747, and 7 January, 1748; and Boston Gazette or Weekly Journal, 5 January, 1748.

The arrival of Commodore Knowles in command of a part of the Louisburg fleet, in company with Sir William Pepperrell; the refitting of his vessels disabled by the storms encountered on the way; his riding at anchor in Nantasket Roads for the assembling of the fleet of merchantmen he was to convoy; the numerous desertions of his sailors and the scarcity of enlistments; his ships left short-handed; his resort to that method of relief, common enough in the English service, but especially obnoxious and injurious to the Province; the press-gang sent out in the early morning of the seventeenth of November, 1747; the seizure of seamen from the merchant vessels in the harbor and along the shore, sometimes of nearly their entire crews; the taking of men off boats plying to and fro, unlucky enough to run in their way; the capture of sailors, landsmen, craftsmen, apprentices, and laborers found about the wharves, in fact, of almost anybody along the water front of the town; the storm stirred up in town by an impressment of such severity; the exultation in the victory of Louisburg, and the pride in all concerned therein, now forgotten in what they felt to be an encroachment on their rights and an assault on their liberties; the mob that gathered about the Governor's house, that filled King Street, and flung their missiles into the Council Chamber windows; Shirley's futile attempt to address them and quell the outbreak; their refusal of any terms but the retention as hostages of such officers as happened to be in town, and prompt and full redress of their grievances; Shirley's letter to the Commodore asking a release of the impressed men, or a suggestion of some terms of reconciliation; the order of the Governor for a parade of the militia and the mounting of a guard, in response to which "not men enough turned out to form a line," or, as he himself put it, "not a man appeared but the officers;" the Governor's flight to Castle William; Knowles's wrath at the turn things had taken, and at what seemed to him arrant rebellion; his threats and preparations to bombard the town, — this summarizes the situation.

The action of the authorities needs but brief mention. All is fully set forth in the records of the respective Bodies.

The appointment by the General Court upon the seventeenth, the first day of the Riot, of a Committee to inquire into the matter and report thereon; the Resolutions adopted by it upon the nineteenth,

without waiting for that Committee to report, denouncing disturbances that "tended to the destruction of all government and order," asserting their determination to "stand by" the Executive, but at the same time to have all grievances redressed; the waiting of a Committee of the body with the resolutions upon Governor Shirley at the Castle; the appointment of another Committee to consider "what further it might be proper for the Court to do;" the Order of the Council for the release of all of Knowles's officers detained or on parole, and for their protection on their return to their vessels; the application of "a Number of the Inhabitants" to the Selectmen of Boston, setting forth that "great Disorders for several Days past have been committed within this Town, and Insults and abuses offered to his Excellency the Governour and the Honble the Council, when sitting, by a number of Persons (chiefly Strangers) who this week assembled together and Committed great outrages, putting the Inhabitants of the Town in great Terror of their Lives;" the meeting of the Selectmen "to Consider what is necessary for the Town to do to Evidence their Disavowing and Detestation of this unjustifiable affair;" the call for a town-meeting; the great town-meeting at five o'clock on the same day, with its dignified and decided action, clearing the town or "the generality of the Inhabitants" from the charge of "Abetting or Encouraging the late Tumultuous Riotous Assembly," resolving that it "consisted of Foreign Seamen, Servants Negroes and other Persons of mean and Vile Condition," declaring "the utmost Abhorrence of such Illegal Criminal Proceedings," and that they "will to their Utmost Discountenance and Suppress the same, and will at the same time encourage by all ways and means whatsoever any of their Inhabitants in making a Regular orderly Application to the proper Power for redressing all and every Grievance;" the appointment of a Committee, "the Hon^{b} Edward Hutchinson Esqr the Moderator of the Meeting and the Selectmen of the Town" "to wait upon his Excellency Governour Shirley the Honble his Majesty's Council and the Honble House of Representatives, and in the Name of the Town present 'em with" a copy "of this Vote or Resolution of the Town;" the waiting of this Committee upon the Governor at the Castle, who was "pleased very favourably to Receive the same and to Express his Satisfaction therein;" the various explanations and negotiations that took place; the return of the Governor to his house

under an escort with fuller ranks than had "been known in any Regimental Muster for diverse Years past;" the reading of the Governor's Proclamation at the head of the regiment; the reward offered for the apprehension of the ringleaders of the mob; the assurance given that "all due care should be taken for maintaining their just rights and liberties, and redressing all & every grievance;" and all matters at length satisfactorily adjusted, the storm was over.

The temper of the town was quite ready for such an outbreak. Impressment, it is true, had the sanction of custom and the force of law, regulated as it was by Acts of Parliament from the time of Mary; but Boston was always restive, and questioned its exercise here.

The records of the town proceedings, articles in the newspapers of the day, and other discussions of the subject show the state of feeling, and that the practice of "Impresses" was regarded as one of the main "Discouragements and Hindrances of the growth of our Plantations." The Minutes of the Selectmen, 21 August, 1745, contain a vote for a memorial to Spencer Phips, "the Lieut. Governour and Commander in Chief for the time being over our Province," and to the Council, praying for "immediate relief" against the doings of "a small Schooner Cruizing in our Bay" as a matter that "nearest effects the Libertys of the People and is a great Insult upon this Government." And again, on the twenty-second of November in the same year, there is another memorial praying for relief against the distress from scarcity of fuel occasioned by taking coasters for "service in the late expedition against Cape Breton," and the seizure of sailors "in a most arbitrary and illegal manner out of others of 'em that were not taken up."

The Town Records of the tenth and eleventh of March, 1746, give a full account of the proceedings in town-meeting as to "the Grievances this Town Labour under by reason of the Arbitrary and illegal proceedings of the Governour and Council in repeatedly Granting press Warrants, as also the male behaviour of some of their officers." A very spirited petition to the House of Representatives was adopted. A tone of wounded pride and indignation runs through it, as it touches upon the distress occasioned lately by "no less than three Several Warrants," "executed in a manner

before unknown to Englishmen," and upon the effects on "the once Cherish[d] now Depress[d], once Flourishing now sinking Town of Boston;" but it winds up with a sturdy assertion that such warrants are "Breaches of Magna Charta, The Charter of the Province, and an Act of Parliament." There was a reconsideration two weeks later, and it was voted "That the said Petition and the Motion whereon it was grounded, contains Expressions disrespectful and reflecting upon his Excellency the Governour, and the Council, — and so far as it relates to the disrespectfulness the Town disavow the same." But though disavowing the disrespectfulness, the town seems to have receded from none of its positions. With all this strong feeling in the matter the town throughout looked only to lawful measures of redress, as signally appears by its course in the recent Riot. Matters were again quiet, but the town was still sensitive and jealous for its reputation as to order and loyalty. A new grievance arose. Two letters of Governor Shirley to the Secretary of the Province, written from the Castle in the first days of the Riot, before the town moved in the suppression of it, appeared in the Post Boy of the fourteenth of December. This, so long after the events, gave "uncommon concern" as having "a tendency to put the Town in a disadvantageous light with his Majesty." "A Number of the Inhabitants" at once applied to the Selectmen, as their Minutes of the sixteenth show, to call a town-meeting "to consult upon proper measures to Vindicate their Injur'd Characters and secure their Invaluable Priviledges;" and a town-meeting was called for the eighteenth. Meantime a "further Account of the Riot, and the proceedings thereupon," appeared in the Weekly News-Letter of the seventeenth, in a shape tending "to clear up the Character and Reputation of the Town." This, however, did not remove the grievance, as the one publication was presumed to be by Authority, while the other did not so appear. Town-meetings were held on the eighteenth, twenty-fourth, and twenty-ninth, and at length, after long debates, a petition to the Governor was got in satisfactory shape and unanimously adopted. The Governor's reply upon the same day assured them the publication of his two letters "did not in the least proceed from an inclination to prejudice the Carecter and Reputation of the Inhabitants, but was wholly occasioned by an insinuation in a late Pamphlet which appeared," he said, "to have a tendency to put part of my own Conduct upon this Occasion in a

wrong light; and which I apprehended my Publication of those two Letters would Vindicate it from;" likewise that the account in the News Letter was published by his direction, and that fact was sufficient to show that he "had no desire to Represent the Behaviour of the Inhabitants of the Town of Boston in a disadvantageous light," and to "remove all concern which might have been occasioned," and that the affair appeared to him "in a favourable light." This reply was immediately voted to be "fully satisfactory."

It was just at this time that the alleged libellous publications appeared. The libel declared upon in the suit is contained in a passage in Dr. Douglass's famous Summary,[1] — a work perhaps too well known to need more than a casual reference here, — in that part of his treatise where he discusses some of the "Discouragements and Hindrances of the Growth of our Plantations." Among others he sets forth the disastrous effects of the practice of impressments, as preventing the increase of shipping and seamen, discouraging business enterprises and occasioning tumults and tragedies, and refers for a striking illustration to the recent disturbance in Boston, giving some account of the Riot, and indulging in some extremely abusive and savage strictures upon Commodore Knowles. The passage occurs in the Serial Number of 24 December, 1747.[2] An extract from this had already appeared in the Even-

[1] A Summary, Historical and Political, of the first Planting, progressive Improvements, and present State of the British Settlements in North-America, containing — I. Some general Account of ancient and modern Colonies, the granting and settling of the British Continent and West India Island Colonies, with some transient Remarks concerning the adjoining French and Spanish Settlements, and other Remarks of various Natures. II. The Hudson's Bay Company's Lodges, Fur and Skin Trade. III. Newfoundland Harbours and Cod-Fishery. IV. The Province of l'Accadie or Nova-Scotia; with the Vicissitudes of the Property and Jurisdiction thereof, and its present State. V. The several Grants of Sagadahock, Province of Main, Massachusetts-Bay, and New Plymouth, united by a new Charter in the present Province of Massachusetts Bay, commonly called New-England. By William Douglass, M. D. Vol. I. (*Ne quid falsi dicere audeat, ne quid veri non audeat.* — CICERO.) Boston, New England: Printed and Sold by Rogers and Fowle in Queen Street. MD, CC, XLIX.

[2] The Titlepage of this Number is as follows: A Summary Historical and Political of the first Planting progressive Improvements, and present State of the British Settlements in NORTH AMERICA; with Some transient Accounts of the Bordering French and Spanish Settlements. By W: D: M: D. Nº 15. To be continued. Boston. Printed and Sold by Rogers and Fowle in Queen Street 1747 Where may be had all the former Numbers at 6d each New tenor.

ing Post of the fourteenth, and a longer extract in its issue of the twenty-first. This last newspaper also contains upon the same page a concise and full summary of all the official proceedings at the time of the Riot, evidently occasioned by the matter in the Post Boy of the fourteenth already mentioned.

A copy of these libellous publications is said to have been sent directly to Admiral Knowles at Jamaica by Governor Shirley, who added a suggestion that "the author was beneath his notice." Knowles, however, evidently thought otherwise, or cared little, and determined to proceed at once against Dr. Douglass. A power of attorney was executed by him on 7 April, 1748, the original of which, duly authenticated by the proper officials of Jamaica, is on the files of the Court. It empowers Charles Apthorp, Thomas Hancock, and Jeremiah Gridley, or either of them, to prosecute actions against all concerned as authors, composers, printers, or publishers of certain scandalous and defamatory libels in the Evening Post of the fourteenth and twenty-first of December and in the Summary; to carry them through the Provincial Courts, and if need be to appeal to his Majesty in his Privy Council. Suit was accordingly begun in the Inferior Court of Common Pleas, at the July Term, 1748.

Both the plaintiff and the defendant are striking and picturesque personalities. Knowles traced his ancestry to a Crusader with Richard I. in the Third Crusade, with an irregularity in his own generation. Born in 1702, he had been in the British Service since he was fourteen, and was now a Rear-Admiral. He had already seen various and brilliant service, and distinguished himself as an officer, an engineer, a mechanician, an inventor, and to some extent as a man of science. His various commands and offices on this side of the water had brought him at different times into somewhat close relations with American affairs. Even as late as the spring of 1747, as Governor of Cape Breton, he had been able to render the Province efficient help when a scarcity of coal was apprehended. Governor Shirley sent to the Selectmen of Boston an extract from his letter of 25 May, wherein he says: "I desire you will be pleased to acquaint the Town of Boston that I will order 'em to be supplyed with Coal without Staying till the Garrison is first provided, being glad of an Opportunity to oblige your Excellency, and serve the Province," — an offer which was gladly accepted, and a hearty

acknowledgment sent by the Selectmen on the third of July, in which they say, "This Repeated Expression and Proof of your favourable Regards for this Town and Province require a repeated acknowledgement," and "hearty thanks" are given for his "good Will and Affectionate Regards." After the desperate attack had been made by the French and Indians, under the command of Joseph Boucher de Niverville, upon the frontier fort in Township Number Four, on the fourth of April, 1747, and a three days' siege successfully resisted, Knowles, in admiration of the bravery and skill shown in its defence, is said to have sent a sword to Captain Phinehas Stevens, who was in command of the post; and the place, when afterward incorporated, is said to have been named Charlestown in Knowles's honor.[1] When the demands of the public service came in conflict with private rights and interests, in his judgment the latter must yield. In the matter of the impressments of November he seems to have acted with extreme rigor, but it is to be said that he claimed that his officers had exceeded their instructions; and further, that he was exasperated at the reports which reached him that deserters from his fleet were still skulking in Boston, who had not availed themselves of the forgiveness asked and given, while others were on board the very merchantmen he was to protect. When the impress had been made, he was ready to right any wrongs until he found the mob had taken things into their own hands, and he was obliged to "await the event," as shown by the depositions on file in the case. They also indicate an impetuous, imperious temperament, jealous of interference, together with a British officer's unquestioning respect for constituted authority, and a sensitiveness to any encroachment upon it. His only thought, apparently, was that now, the Governor having sought refuge in the Castle, it devolved on him, as the representative of the royal authority, to restore order and reinstate the ousted official by force, without waiting for the slower process of the laws and the civil power. Other depositions bear witness to the warm affection of his sailors for him. Shortly after the Riot he sailed for Jamaica, to assume the command of the fleet stationed there. He was ap-

[1] Address at the meeting of the Pocumtuck Valley Memorial Association at Fort Dummer, 13 August, 1896, by Rev. George Leon Walker, D. D. (Greenfield (Mass.) Gazette and Courier (newspaper) of 15 August, 1896); McClintock's History of New Hampshire, p. 210.

pointed Governor of Jamaica in 1752, as the successor of Trelawny, and in 1756 asked leave to resign. Governor Shirley seemed then likely to be his successor. His subsequent career was one of distinction. After more than fifty years in the British service, and when he seems to have been on the retired list on half-pay, he entered, with the consent of his own government, the service of Russia, where he remained from 1770 to 1774. He died in 1777, having been "in thirteen general actions during the wars within his time, and had commanded in six."

For his eminent services he was made a Baronet in 1765. To the typical characteristics of an English sailor he seems to have added a versatility rarely found in that profession. He has been called "a statesman of no mean capacity," and a comment of a Lord Chancellor has been quoted, that "his civil administration as Governor and Chancellor of Jamaica has never been surpassed;" and of an Attorney-General, that "but for his naval profession he should have thought he had been bred to the Bar."[1]

Dr. William Douglass came from Scotland in 1716 at the age of about twenty-five years, and began practice in Boston two years later. He was born in Gifford, a town in the County of Haddington, near Edinburgh, and was the second son of George Douglass, the factor of the Marquis of Tweeddale, and a portioner in Gifford. Educated in Leyden and Paris, he was for a time the only regularly graduated physician in Boston. He seems to have been a man of decided character, varied accomplishments, much learning, extensive reading, wide and various information, and good abilities. He was a leader of the opponents of Inoculation in the famous controversy of 1721, finding, perhaps, an additional interest and motive in the fight from the fact that the clergy were on the other side. But in the small-pox epidemic in 1752 he favored and used the practice. In "the Plague in the Throat" epidemic in 1735 and 1736, which baffled medical skill and spread consternation, he wrote a practical history of the disease, which, republished ninety years later, was called "one of the best works extant upon the subject," — an estimate which recent discoveries and advances in medical science would somewhat lower to-day. It has also been said

[1] See Albert H. Hoyt's article on the Pepperrell Papers in the New England Historical and Genealogical Register for October, 1874, xxviii. 451–466; and Palfrey's History of New England, v. 88, 145.

that "Medicine in Boston owed the reform of its Materia Medica largely to Dr. Douglass." He figured also in other fields, — as a botanist, an astronomer, and an almanac-maker. He was a ready and prolific writer for the newspapers of the day, and the author of some pungent pamphlets. His style, though harsh, clumsy, and not always grammatical, had much of aggressive force and point. His more ambitious work, the "Summary," appears in connection with the Libel. A noticeable feature of it is the soundness of his views on many abstract questions of public policy, finance, government, the conditions of the British dependencies in America, and economics in general. The strength of his prejudices, his love of a fight, and the slashing quality of his style not unfrequently color his statements of fact. He was a born controversialist. It has been so neatly said of him that "he was always positive and sometimes accurate," that it will bear quoting again. Possibly, however, historic accuracy may have here yielded somewhat to epigrammatic point. He was supposed to be one of the writers for the Courant, variously denominated "respectable characters," "free thinkers," and "the hell-fire club," according to the point of view. He was evidently a man of intense prejudices, extreme views, with the courage of his convictions, not afraid or ashamed of inconsistency, quarrelsome, impulsive, self-confident, full of energy and force. Honest, too, he was, and ready to acknowledge his mistakes; always planting himself on the side that seemed right to him at the moment, without regard to previous opinions or positions. He was a landed proprietor and benefactor in the town in Worcester County which perpetuates his name, and the holder of considerable real estate in Boston, which latter possession gave him a chance to be at issue with the assessors. One of his houses here was the famous Old Green Dragon Tavern Estate, in which he wrote his Summary, and where he died 21 October, 1752.[1]

The case, beginning in the Inferior Court of Common Pleas, went through all its stages to the Court of last resort in the Province, ably and strenuously fought upon either side by some of

[1] Memorial History of Boston, ii. chap. xv. and xvi.; iv. chap. ix. and x.; Drake's History and Antiquities of Boston, p. 623; Shurtleff's Topographical and Historical Description of Boston, pp. 609, 610; Palfrey's History of New England, iv. 414 *et seq.*; and New England Historical and Genealogical Register for 1877, xxxi. 118.

the most eminent lawyers in the Province, whose fame has come down to us through a century and a half. The Court Records present the case as fully and succinctly as is possible.

The record in the Court of Common Pleas is as follows: —

Suffolk ss. Anno Regni Regis Georgii Secundi Magnæ Britanniæ Franciæ & Hiberniæ vicesimo secundo.

At an inferior Court of common pleas begun & held at Boston within and for the County of Suffolk on the first Tuesday of July being the fifth day of the said month Anno Dom^{i} 1748. Charles Knowles Esq. now residing at the island of Jamaica Plt. *vs* William Douglass of Boston in the County of Suffolk Physician Def^{t} in a plea of trespass on the case, for that whereas the said Charles is a true faithful & honest subject of our kingdom of Great Britain, has been so reputed from his nativity to this time, & gained a valuable character by his prudent behavior & faithful services in our fleet, & on account thereof been promoted to be a Commodore in the same; & also for his loyalty courage & experience in military affairs been appointed Governor of our island of Cape Breton, & since appointed Rear Admiral of the white squadron in our fleet, & Commander in chief of our ships of war, & the other ships at the said island of Jamaica, in all which stations his behavior had in all points answered the trusts reposed in him, all which the said William well knew; yet the said William maliciously contriving to hurt the sd. Charles's good name & bring him into disgrace as a person behaving ill in his posts aforesaid & altogether unworthy of the same, & to put him in danger of losing his aforesaid posts of Governor of the said island of Cape Breton, Rear Admiral of the white squadron of our fleet, & Commander in chief of our ships of war & the other ships at the island of Jamaica with the profits thereof, to his utter ruin, did on the twenty fourth day of December last at Boston aforesaid compose write & publish in the sight & hearing of many of the good & faithful subjects a scandalous & infamous libel intitled, A Summary historical & political of the first planting, progressive improvements, & present state of the British settlements in North America; with some transient accounts of the bordering French & Spanish settlements, & Printed & sold by Rogers & Fowle in said Boston; wherein among other things the said William falsely & maliciously affirms & declares of the said Charles the following false & scandalous words, viz. "Novr 17th Anno 1747 Commodore Knowles" (meaning the said Charles Knowles) "made a general impress in a most illegal unprecedented manner; seized or rather in the night time in sur-

prise, by his press gangs stole away ship builders apprentices & whole crews of ships not only outward bound but actually cleared out, without leaving any of his own people on board to take care of the ships & merchants interest. This naturally occasioned a considerable tumult: The rioters seized the sea officers that the Commodore" (meaning the said Charles Knowles) "had imprudently left ashore, by way of reprisals, but used them well. The Commodore" (meaning the said Charles Knowles), "threaten'd & did actually make some advances with his fleet towards the town of Boston to bombard it or land his men there (doubtless if he had arrived to the point of putting this furious madness in execution, his officers would have confined him as a maniac) but this paroxysm abated, & he returned a few of the impressed men." Also these farther false & scandalous words, viz. "Mr Kn—les" (meaning the said Charles Knowles) "as a sea Commander perhaps may be noted in the future history of our colony for his unprecedented arrogance by insulting the governments & distressing of trade. He" (meaning the said Charles Knowles) "is of obscure parentage, in his youth served aboard the navy in the meanest stations, & from some unaccountable whim or humour of some of the officers (thus some ladies take a liking or fancy to a monkey, lapdog or parrot) at present in high station, & some smattering in the engineering business he is arrived to be a warrant Commodore in America, where like a beggar on horseback he rides unmercifully. A succession of such Commodores would contribute to alienate the affections of the Colonys from their mother country. Such petty tyrants in the Colonys answer no intention. His" (meaning the said Charles Knowles's) "courage is not genuine & true, but a sort of frenzy. Witness his ill conducted, therefore unsuccessful, expeditions against La Guira & Porto Cavallo in New Spain, anno 1743. This foible renders him naturally incapable of any chief command, but qualifies him to act under direction pointing his courage right, as master of a fireship, or as a private Captain upon some desperate attempt or forlorn hope. Madmen will run into the greatest general dangers, but at the frown of their keeper or austere threatning of any single person are intimidated. Thus our Commodore dreads any private challenge, as appeared by vouchers which may be produced. His" (meaning the said Charles's) "present state is rash, inconstant, valetudinary friendship, hated by the common sailors, & not beloved by his best officers; laboriously indefatigable in running to & fro, & in expending of paper, true symptoms of madness. Mr. Kn—les" (meaning the said Charles Knowles) "is very apt to misplace his application. We have a plain instance of this last summer while he resided in command at Louisbourg. Instead of blocking up the mouth of Canada river to prevent supplies

being sent to Canada, at that time much in want of stores, & preventing the french cod fishery in the northern harbors of Newfoundland, he busied himself in small concerns which properly belonged to some inferior officers, viz. cleaning the streets of Louisbourg, the business of scavengers: disciplining of tipling houses, the affair of orderly sergeants; inspecting & distressing our coasting vessels that carried live stock, liquors & other provisions for the comfort of the garrison; this might have been delegated to the naval officers. I shall give a few instances of his" (meaning the said Charles Knowles's) "madness & bad conduct. 1. In Antigua he impressed all the men of Capt. Purcell's privateer, which had been hired by the island for the protection of their trade & made a property of the vessel. 2. His insulting the government & forts of Barbadoes & the custom house office there. 3. The La Guira & Porto Cavallo's unsuccessful affair, with the loss of many men & great damage of the King's ships. 4. Last summer, instead of cleaning his ships when at Boston (the properest & most convenient of all the Colonys for that use) he carried them to Annapolis in Nova Scotia; but because the officers of the garrison did not do him the honors which he expected, pretending the tides were too slack he returned to Louisbourg. 5. This autumn 1747 he left the trade of the southern district of the British North America exposed to the enemies privateers (they took several of our vessels) by ordering the station ships of Carolina & Virginia to rendezvous at Boston to form a fleet of parade or vanity for the Commodore" (meaning the said Charles Knowles. Whereas in truth the said Charles Knowles was not guilty of any of the misdemeanors or misconduct composed written & published as aforesaid; but by color of the said several false malicious and defamatory words so published as aforesaid, he is greatly hurt in his good name, fallen into great scandal & reproach, & is in danger of losing his aforesaid two last mentioned posts of Rear Admiral of the white squadron in our fleet, & Commander in chief of the ships of war & the other ships at the island of Jamaica, & the profits thereof accruing; and to discover the falsehood & malice of this libel & words therein before recited, the said Charles hath been put to great pains & travel, & forced to expend several sums of mony; all which is to the damage of the said Charles Knowles (as he saith) the sum of ten thousand pounds lawful money of Great Britain. The def^{t} appeared by John Overing Esq. his attorny, & saving his pleas in abatement which were overruled by the Court, for issue farther said that he was not guilty in manner & form as the pl^{t} complains against him, & thereupon submits himself to the Country; upon which issue being joined, the case after a full hearing was committed to the Jury, who being

sworn according to law to try the same, returned their verdict therein upon oath, that is to say, they find for the deft cost. Tis therefore considered by the Court, that the said William Douglass shall recover against the said Charles Knowles cost of suit. The plt appealed from this Judgment unto the next Superior Court of Judicature to be holden for this County, & entered into recognizance with suretys as the law directs for prosecuting his appeal to effect.

The case was then taken to the Superior Court of Judicature upon an Appeal by Knowles, and entered at the August Term, 1748, and thence continued to the February Term, 1748–49.

The record begins with the usual statement of the case, sets out the record in the Court of Common Pleas, the proceedings upon the Appeal, and concludes as follows: —

"And now both parties appear'd and the Case after a full hearing was committed to the Jury who were sworn according to Law to try the same and return'd their Verdict therein upon Oath, that is to say, they find for the Appellant reversion of the former Judgment — seven hundred & fifty pounds sterling money of great Britain Damage & cost of Courts.

"It is therefore Consider'd by the Court that the former Judgment be & hereby is reversed and that the said Charles Knowles shall recover against the said William Douglass the Sum of seven hundred & fifty pounds sterling money of great Britain Damage and cost of Courts." [1]

[N. B. The Appellee gave Bond to review this Action at next Term.]

The alleged libel in the "Summary," contained partly in the text, but mainly in a footnote, is about one half the entire passage therein; the remainder, a comparison of Knowles with Sir Peter Warren, a further account of the disturbance and what might have been its consequences, with some more strictures upon the Commodore, though rough and harsh, is less virulent and abusive. There is also in a later number of the work a somewhat full account of the Riot, and references to Commodore Knowles in connection with it, here and in several other passages. Though Dr. Douglass was generally understood to be the author, and "W.D., M.D.," appears upon the titlepage, direct evidence appears in a deposition, used at the first trial in the Superior Court, made by two printers, which declares that —

[1] Records of the Superior Court of Judicature, 1747–50, xvii. 194.

"the Sheets printed under the Title of a Summary &c have been delivered them from Time to Time by William Douglass, of Boston, Physician, in Parcels, and particularly N° 15, with the things therein contained, as we Suppose, in his own Hand writing; which N° 15 is hereto annexed, and that they have from Time to Time printed them from him as the Author."

The work was then coming out in numbers, subsequently collected into a Volume I. in 1749, and a Volume II. considerably later. There were evidently more editions than one, or at any rate changes in the form. There are among the papers on the files two sets of a titlepage and the eight following pages, the same as in Volume I., 1749, certified and made to serve as copies of some earlier issues by erasures and additions in ink, the introductory address of the "Author to the Reader" becoming that of the "Printers," with the necessary changes in language, and the titlepage changed variously and lacking the bold Latin motto from Cicero, —

"*Ne quid falsi dicere audeat, nequid veri non audeat.*"

There are also the printed pages 235 to 238, corrected in ink to correspond with the Libel declared on, duly certified. When the collected numbers were issued in the form of Volume I. sometime in 1749, and at all events before the final trial in the Superior Court, the obnoxious passage was entirely omitted, as appears from the Introductory Address to the Reader, both of the Author and that of the Printers. There is a copy of the 1749 edition in the library of the New England Historic Genealogical Society, and also in that of the Massachusetts Historical Society, where the paging on each side of the original libellous passage is the same as in the original issue; but the libel is omitted and the space neatly filled in by some discussion of the late Act of Parliament of 1746, and some further consideration of the general subject of impressment and suggestions for the improvement of the naval service. There is also a copy in the latter library which bears the autograph of Benjamin Lynde, and the date of 1750, with the titlepage and the subsequent pages of the edition of 1749, which contains the whole of the original passage, text and footnote. Perhaps the explanation is that Judge Lynde had the original numbers bound up and prefixed the new titlepage, as apparently even at the time of the trial the *original* titlepage of 1747, judging from the copies used,

had become scarce. Douglass not only suppressed the passage, — for what reason does not appear and can only be drawn by inference, the attributed motive varying with the estimate of the man, — but also gave, in the Address to the Reader before referred to, an explanation of his purposes and motives in the original reference to the matter and his strictures upon Commodore Knowles, and his reasons for the subsequent omission in the completed history, the *magnum opus* of his life. This explanation is as follows:

"The Writer with Candour acknowledges that in the Affair of Commodore now Admiral Knowles's Impress in the Harbour of Boston, Nov. 1747, there was somewhat of passionate Warmth and Indiscretion, meerly in Affection to the port of Boston, and Country of New-England, his Altera Patria; but not with Rancour or Malice, having no personal Acquaintance nor Dealings with Mr. Knowles; therefore from common Fame, he (as Historians do) only narrates his peculiar Temper, his Severity in Discipline, and not so much Regard as some other Sea-Commanders have for the mercantile Interest, by impressing their Men, when he thought the publick Service required it: His general Courage as a Sea-Officer was extolled; The Insinuation concerning his personal Courage, has been construed amiss; the refusing of passionate Challenges from private Masters of Merchant Ships, whose Men he had impressed, which perhaps might deprive the Nation of his Service, is no Slur.

"The Writer declares that he had no other Intention, than that by setting the Affair in a strong Light he might perhaps contribute towards extending to the Continent Colonies, particularly to New England, a late Act of Parliament against impressing of Sailors in the Sugar West India Islands. Therefore as this Affair was temporary, of no Use, and may give Offence, we by his direction do suppress it in our present Publication of this first Volume of the Summary. Admiral Knowles since he sail'd from Boston, has been gloriously happy in gallant successfull naval Expeditions, particularly in reducing the Fort of Port Louis of Hispaniola, and in beating a superior Spanish Squadron, off the Havannah; he has been in a Course of Preferments; and prosperous as to his private Fortune."

It might be of some interest to take up the various points of the alleged Libel, its statements, its charges, its historical allusions, and the many matters therein contained, — for they open a somewhat wide field for consideration, — but the limits of this paper do not allow it, and the account must be confined to a narrative of the legal controversy and the matters therewith connected.

Douglass brought his Writ of Review, and Knowles, dissatisfied with the amount of damages recovered in the second trial, did likewise. Both of the original writs are on the files of the Court, the writ against Douglass attaching his real estate in Suffolk, enumerating among others the Old Green Dragon Tavern Estate. The two suits were tried together, and the record is as follows: —

Province of the Massachusetts Bay
Suffolk ss. —

Anno Regni Regis Georgii secundi Magnæ Britanniæ, Franciæ et Hiberniæ, vicesimo tertio —

At his Majesty's Superior Court of Judicature, Court of Assize and general goal Delivery, began & held at Boston, within & for the County of Suffolk on the third Tuesday of August, (being the 15th day of s^d^ Month), annoq. Dom^i^· 1749.

By the honb^le^ Paul Dudley, Esqr· *Chief Justice*
Richard Saltonstall, Stephen Sewall, Benjamin Lynde, John Cushing — *Esquires Justices.*[1]

"William Douglass of Boston in the County of Suffolk, Physitian, Plaintif ag^st^ Charles Knowles, Esqr now residing at his Majesty's Island of Jamaica, Defendant, in a plea of review of a plea of tresspass on the Case commenced by the said Charles Knowles against the said William Douglass at an inferiour Court of common pleas held &c &c — "

[Then follows the record of the case in the Court of Common Pleas, and on the appeal in the Superiour Court of Judicature, with the judgment therein, and the record proceeds:]

" which Judgment the said William Douglass saith is wrong & erroneous and that he is thereby damnified the Sum of eight hundred pounds Sterling;

" Wherefore for reversing thereof and for recovering Judgment against the said Charles Knowles for cost of Courts, the said William Douglass brings this Suit.

" And the said Charles Knowles also brought forward his Writ of review of the said Action against the said William Douglass for recovering Judgment against him for the further Sum of nine thousand two hundred & fifty pounds lawful money of great Britain, to compleat the afores^d^

[1] Records of the Superior Court of Judicature, 1747–50, xvii. 267.

Sum of ten thousand pounds, being the Damage laid in the original Writ and costs: —

"And to the Suit brought by the said William Douglass against the said Charles Knowles as aforesaid, the said Charles Knowles by Robert Auchmuty Esqr his attorney defends and for Issue pleads the former Judgment as in nothing erroneous save that instead of being for the Sum of seven hundred & fifty pounds sterling Damages, it ought to have been for the sum of ten thousand pounds lawful mony of great Britain, and costs, and of this puts &c —

"And to the Suit bro't by the said Charles Knowles against the said William Douglass, the said William Douglass by Richard Dana Esqr his Attorney comes & defends &c and saith that the aforesaid Judgment of this Court is not erroneous saving that instead of being for the plaintif to recover the said seven hundred & fifty pounds, it ought to have been for the said William to recover his costs, and thereof puts &c.

" Upon which pleas by the said parties respectively made as afores^d issue was joined & the Case after a full hearing, with both Writs of review, was committed to the Jury who were sworn according to Law to try the same, and return'd their Verdicts therein upon Oath, that is to say, in the Suit brought by the said William Douglass against the said Charles Knowles, they find for the plaintif reversion of the former Judgm^t and cost of Courts, and in the Suit brought by the said Charles Knowles against ye said William Douglass they find for the Defendant costs of Court.

" It is therefore considered by the Court that the former Judgment be and hereby is reversed & that the said William Douglass recover against the said Charles Knowles cost of Courts in both Actions, immediately after this Judgment was entered up the s^d Charles Knowles by his Attorney moved the Court that he might be allow'd an Appeal from the same unto his Majesty in his privy Council, which is granted him and Bond is given pursuant to the Royal Charter." [1]

Whether the case was carried to the Privy Council does not appear. Douglass was left the victor in the Court of last resort of the Province. The plea was the General Issue. What was the line of defence in the trials is not shown, except as it may be inferred from such evidence and exhibits as are on the files; but as this is evidently but a small portion of the entire evidence, any inference from such insufficient premises would be unsafe.

Among the Early Court Files of Suffolk are some fifty papers,

[1] Records of the Superior Court of Judicature, 1747–50, xvii. 276.

including copies and duplicates, which pertain to this case, nearly all belonging to the case in review. These were plainly the Court papers in the case; but in the vicissitudes of a hundred years they had lost their file arrangement, been separated from the case and mixed indiscriminately in that large and miscellaneous collection, till now they have been brought together again. Many of the original papers, however, have disappeared, including all the pleadings. Among these papers, besides those already alluded to, are copies of Knowles's Commission as Rear-Admiral of the White, 15 July, 1747, and as Commander-in-Chief of his Majesty's Ships of War at Jamaica, 12 September, 1747; depositions as to his conduct in the affair of the Privateer Poultney; as to his bearing as an officer by men who had sailed with him; full accounts of the impressment by men impressed, the captains of the vessels, and eye-witnesses of the events; of his actions on the morning of the eighteenth of November when he learned of the Riot and the Governor's flight; and his preparations to come to the rescue of the imperilled royal authority and to bombard the town. Some of these depositions are very vivid and graphic. A few of them are here given in full; and to these a list of all the papers in the case which are still preserved in the Suffolk Court Files is subjoined.

James Barnard Junr of Lawful Age Testifieth and Saith That about the 18th of November 1747, he was at Work on board of his Majesties Ship the Cantebury, under the command of the Honble Charles Knowles, Esqr who was then Commodore of his Majesties Squadron then in Nantasket Road — and saw the Commodore read a Paper (wch as Mr Ball told him he had Iust delivered a Letter from Govr Shirley to the commodore he supposed to be that Letter) As soon as he had done reading it he was in a very great Pafsion & in the deponts hearing said Give the word for the Lieut when the Lieut came to him he Ordered him to give the Signal for all the Captains of the Fleet to repair on Board his Ship, & then said where is my Gunner, give the word for the Gunner, when the Gunner came he said to him, how many rounds have you filled, he answered Nine, the Commodore replyed fill twenty four & Shot the lower Tier — he then gave Orders to Unmoor the Ship wch was done and at the same time the Signal was given for the other Ships to unmoor wch was also done, and the Ship was in right good Order for an Engagement, then, said the Commodore By God I'll now see if the Kings Government is not as good as a Mob — while the Ship was getting ready Mr Benja Hallowell told the Commodore, that the Wheel was not Ship't, he replyed;

Damn it let it be ship't Immediately — the Depon^{t} asked Mr Mortimore[1] whether they would certainly go up to the Town of Boston he answered Yes, by God, & we'll show 'em Pumpkin Play.

JAMES BARNARD, Ju^{r}

I, JOSEPH BALLARD of Lawful Age, Testifie and Say that about the 18th day of November 1747, being at Work on board his Majesties Ship Cantebury in Nantasket Road under the Command of the Honble Charles Knowles Esqr who was then Commodore of his Majesties Ships of War there, Mefs^{rs} Wyer & Flag came from Boston and Informed me, there had been a Mob there Occasioned by the Men of War's Boats coming up to Town & Impreſsing Several Inhabitants Apprentices &c, Just upon which the Kings Ships were Ordered to Unmoor. I Asked several of the Lieutenants why they were going up to Town, they Answered to Defend the Governour whom the Mob had drove out of Town to the Castle & to Subdue the Mob — while I was putting a Lock on the Cabbin Door, the Commodore paſsed by me, and I told him I understood the Ships were going up to Boston, and Asked him if it was so he Answered Yes, I then said I hope Sir I shall Lodge with my Wife to Night, he replyed he could not tell whether I should or not, — I then Asked him what the News was at Town, for I heard there was a great Disturbance there, he answered Yes there was. I then Desired him to tell me what the Ships were going up for, to which he Answered that the Rebels had drove the Governor out of town down to the Castle, & that he was going to Subdue them. I replyed Oh! how will that do, Sir the Righteous will suffer with the Wicked. how will you find out the Rebels he Answered the North End People were the Rebels. I told him I should suffer then for I lived there he replyed no, no I'll take care of that I will punish ye guilty I told him he must be very curious in throwing his Shot then — at which he smiled — The Signal was made for the Commanding Officers of the other Ships to come on Board the Cantebury, & I heard the Commodore give Orders to one of the Lieutenants (who I was Informed was a Lieu^{t} of the Warwick,) to get his Ship ready & to prepare a number of Rounds of Powder & Ball, And to my best remembrance I heard him give the same Orders to another officer. And all the Ships Except the Canterbury & Warwick, the Next morning came to sail & Anchored in King Road.

JOSEPH BALLARD.

NATHANIEL PARKMAN of Lawful Age, Testify's in substance to the truth of what Mr Joseph Ballard Deposeth, and further saith that he saw a paper in the hands of Commodore Knowles which one on ye

[1] This may have been Peter Mortimore, mariner, who was married at Trinity Church, Boston, 18 October, 1748, to Mary Wilcocks. See Suffolk Probate Files, No. 15,465.

Quarter Deck said was a Letter from Govr Shirley, and which in a great paſsion he tore in pieces, and with a severe stamp ordered the Guns to be got Reddy to be Loaded (& a number of rounds to be in readineſs) with double round & Partridge & the Carpenter to fix the Wheel in order to bring the ship to Sail, he likewise gave the Signal for the Commanding Officers of the other Ships to come on Board the Cantebury, and when they came he ordered them to prepare a number of Double rounds & partridges and to get their Ships Immediately Redy to be under Sail to go up to Boston, he was asked what he was going to Do to the Town, he answered he was going to suppreſs the Mob who had drove the Governour down to the Castle — As they were getting ready to come to Sail, one of the Lieutenants who was detained at Boston, came on Board, to whom the Commodore said What ? have you got out of the hands of the Phillistines? he answered Yes, well said the Commodore we 'll be revenged of them by and by — The Depon^{t} understood from Mr Ball[1] the Pilot who was in the Round House, that he was very Ill used because he would not undertake to Pilot the Cantebury up to Gallows Bay.

NATH^{ll} PARKMAN.

GERSHOM FLAGG of full age testifieth & saith that in the month of Novem^{r} 1747 about ye 18th Day that I was going on Board His Majes^{tys} Ship the Canterbury when the gun was fired & the fore Topsail Loos^{d} the signal for sailing and when I Enterd the Ship found they ware Heaveing up there ankor I then asked the admiral Charles Knowles Esqr what was the matter he told mee he was going to Knock your Town Down. I told him S^{r} I am sorrey that the Inocent should suffer with the gilty and further told him that no men of Distinction or of any free Hold ware among the mob or Riot. he then said he would Down with any that Opposed the King's Governour, I told him that my House stood in a vally & so I Repair^{d} to my Duty being at work on Board His Ship & further saith not.

GERSHOM FLAGG.

Sworn to by the Depon^{t} in Superior Court at Boston April 25, 1749.
Att: Saml Winthrop, Cler.

There is a deposition by EBENEZER ROCKWELL, the Pilot of the Shirley, a characteristic story of an old salt, who had sailed with Knowles on various voyages, and tells how he " never see so contented a Ship's Company nor no Gent^{m} ever took Better Caire of his men, Neither would he Allow ye Boatswaine nor his Mates nor no other officers to Abuse them, and was beloved very much amongst ye Seamen, and they said They

[1] Robert Ball, died in October, 1774 (The Boston Evening Post, No. 2038, of Monday, 17 October, 1774). See Suffolk Probate Files, No. 15,703; and Boston Record Commissioners' Reports, xiii. 309; xv. 318; xix. 50; and xx. 224.

thought themselves Happy that could Git on board of his Ship with him." And in a sort of postscript he remembers "that upon the arrival of Mr Knowles at Annapolis he was not Saluted by the fort or Castle, but upon his going away received the usual Salutes."

Josiah Gains of Lawful Age Testifieth & Saith that in November 1747 he was Second Mate of the Ship Mercury John Cathcart Master, bound to Madera and that to the best of his remembrance they came to sail with a Design of proceeding the Intended Voyage on the 14th day of the sd month, but the Wind proving contrary they brought sd Ship to an Anchor a little above the Castle where She lay till the 17th following. On the morning of which day about 4 oth' clock the Deponent was Suprized with four Barges & about 80 men well armed belonging to the Squadron under the Command of Commodore Knowles then in Nantaskett Rhoad — who Boarded the sd Ship & in a Rough manner demanded all the Keys of the Ship. The Deponent asked them what they wanted they replyed your Men. The Deponent then told them sd Ship was Outward bound they Damned him & Order'd him to go Immediately into their Boat, or they would drive him, he then said if you prefs me you must take charge of the Ship they Damned me again & said their Orders from the Commodore was to take every Man Except the Captain out of the Ship — at length One of the Lieutenants who seemed to be the Commanding Officer among them told this Deponent that as the Captain was not aboard he might stay, but that Mr Knowles's Express Orders were if the Capt was on Board to Impref every Man but him — & so they carried of all the Ships Crew the Depont & two Small Boys only Excepted soon after the Wind blew very hard & the Ship was in the utmost distref for want of hands the Depont every minute Expecting she would drive Ashoar, & that a few days after, with the Afsistance of a number of hands from the Town, they with much difficulty got the Ships Anchors up but her Cables were all cut to pieces. Afterwards the sd Ship was carried down to Nantaskett, & moored, but before a sufficient number of hands was procured to Man her an Exceeding hard Gale of Wind came on which drove her Ashoar, by means whereof she suffered great damage in her Bottom, besides the Loss of her Anchors & Cables — in this Condition she lay beating among the Rocks about three Weeks & it was thought she never would be got of again, however after she was Unloaded & Cables & Anchors brought from the Town she was with great Labour got of & brought to Town where she was under the Carpenters hands upwards of three Weeks afterwards she was carried down to the Island where she drove Ashoar to take in her Cargo, but One half was greatly

damaged & great part utterly lost — The said Deponent also saith that soon after the hands were Impreſsed he went with Capt Cathcart on Board the Commodores Ship, when the s^{d} Capt sent a Letter to Mr Knowles (wch he ye s^{d} Capt wrote himself) Intreating that his Men might be released, but an Officer came out of the Cabbin from Mr Knowles for Capt Cathcart was not permitted to speak with him & told him the Commodore said it would take two or three days Consideration before he could Answer his Letter.

And further the Deponent Saith not.

JOSIAH GAINES.

The Deponant Adds that he was not on board ye Ship when she went aſhore, but was Told of it by ye Men belonging to the same Ship, by whom ye Deponent Also understood there was Seven & Twenty Men on Board when the Ship went ashore & when ye Deponant Left ye Ship he Left so many men on board her.

There is the deposition also of JOHN CATHCART, Master of the Vessel, who on learning of the impressment of his crew obtained a letter from Gov. Shirley to the Commodore; an account of the measures for the relief of his distressed ship; the delay therein from the suspicion of the Commodore that his men were to be decoyed up to town; the final clearance for Barbados, the dangers encountered on the way, and the sale of the vessel there, as unsafe for a return, at great loss to the owners.

There are also depositions of two apprentices overhauled on their trip to Noddles Island, who with Yankee independence insisted that they could not be touched as "they were about their Master's business," but were answered "that was no matter for the Commodore's orders were to impress every body," and who were detained "till the Sabbath evening following."

JONATHAN TARBOX, a caulker, tells of the seizure of his men in a boat on their way to a caulking job, his subsequent recognition, — "Aha you've got our caulker," and the release of the whole party upon his intercession.

BENJAMIN HALLOWELL testifies to communications made to the Commodore that about thirty of his men of war's men were in Boston, who would return if forgiven, but who did not avail themselves of the offered forgiveness; and of other deserters on board outward bound vessels; of boats sent up to recover these, returning with men, when Knowles told him he "would not keep a man that belonged to the town

[of Boston] or the Colonys; he wanted nothing but strangers," and tried to sort them out, but "frequent messages from town that the Mob continued & more of his officers were secured," made him decide "that now he could not discharge them before he knew the event."

LIST AND SUMMARY OF PAPERS *IN RE* KNOWLES *v.* DOUGLASS IN THE EARLY COURT FILES OF THE COUNTY OF SUFFOLK.

Volume CCCCVII., Group-number 65.550, Twenty-six papers: —

1. Original Writ of Review, Douglass *v.* Knowles, containing entire record and proceedings in original Case up to date, with return of service, etc.

2. Original Writ of Review, Knowles *v.* Douglass, likewise containing same, return of service, etc.

3. Copy of Power of Attorney from Charles Knowles to Charles Apthorp, Thomas Hancock and Jeremiah Gridley to prosecute suits for Libel.

4. Copy of Deposition of Thomas Allen of Jamaica as to exhibition to him by Knowles of his Commissions as Rear-Admiral and Commander-in-Chief of his Majesty's Ships at Jamaica, etc.

5 and 6. Copies of same Commissions, dated 15 July and 12 September, 1747.

7. Copy of Certificate of Wastel Briscoe, Secretary of his Majesty's Island of Jamaica, etc., that Edward Manning, before whom the deposition of Thomas Allen (see No. 4, *ante*) was taken, is an Assistant Judge of the Supreme Court of Judicature of Jamaica and *Custos Rotulorum.*

8. Copy of Certificate of Edward Trelawny, Captain-General and Governor-in-Chief, etc., of Jamaica, etc., Chancellor, and Vice-Admiral, etc., as to office and authority of Wastel Briscoe.

9. Deposition of Joseph Ballard as to the occurrences on board his Majesty's Ship Canterbury, 18 November, when the news of the Riot, etc., was received.

10. Deposition of James Barnard as to same.

11. Deposition of John Cathcart, Master of Ship Mercury, as to impressment of his men, the consequences, etc.

12. Deposition of Gershom Flagg as to the occurrences on board the Canterbury, 18 November.

13 and 14. Copies of same.

15. Deposition of Josiah Gains, second mate of the Mercury, as to same matters covered by No. 11.

16 and 17. Copies of Deposition of Benjamin Hallowell, the original being No. 19, *post.*

18. Deposition of Benjamin Hallowell as to occurrences on board the Lark, when Knowles received a message from town on 18 November.

19. Deposition of Benjamin Hallowell as to reports of deserters in town and on board outgoing vessels, before the impressment, and as to action of Knowles before and after the impressment with regard to the men.

20. Deposition of John Jones, part owner of the privateer Poultney, as to affairs concerning her and Knowles's action.

21. Deposition of Battison Oakley, lieutenant of the ship Boston, as to Knowles's flying the flag of Rear-Admiral in Jamaica, and being recognized as such and as Commander-in-Chief, etc.

22. Deposition of Nathaniel Parkman as to occurrences on board the Canterbury, 18 November.

23. Copy of Deposition of Vincent Pearse, late commander of the ship Boston, as to Knowles being recognized at Jamaica as Rear-Admiral and Commander-in-Chief, and taking the qualifying oaths in January, 1748, on arrival.

24. Deposition of Ebenezer Rockwell, pilot of the Shirley, who had sailed with Knowles on voyages, as to his bearing as an officer and his reputation among the sailors.

25. Deposition of Jonathan Tarbox, a caulker, as to his company of men, tradesmen, etc., in a boat on its way to Mistick, being impressed 17 November.

26. Deposition of James Tyleston, as to occurrences on the Canterbury, 18 November.

Volume CCIX., Group-number 24871, One paper: —

Verdict in Douglass *v.* Knowles, on Review.

Volume CCIX., Group-number 24961, One paper: —

Verdict in Knowles *v.* Douglass, on Review.

Volume CCCXCV., Group-number 63469, Two papers: —

1. Copy of the Commission of "the honorable Charles Knowles Esquire Rear Admiral of the red Squadron of his Majesty's fleet"

as "Rear Admiral of the White Squadron of his Majesty's fleet," etc.

2. Copy of the Commission of Knowles as "Commander in Chief of his Majesty's ships and vessels employed and to be employed at and about Jamaica," etc.

Volume CCCXCIX., Group-number 64145, One paper: —

Copy of Record of Case of Knowles *v.* Douglass in Inferior Court of Common Pleas.

Volume CCCC., Group-number 64272, Two papers: —

1. Original Power of Attorney, Knowles to Apthorp, *et al.* (same as CCCCVII., 65.550: 3, *ante*), and
2. Copy of same.

Volume CCCCI., Group-number 64502, Two papers: —

1. Original Deposition of Vincent Pearse (see *ante*, CCCCVII., 65.550: 23), and
2. Copy of same.

Volume CCCCI., Group-number 64529, Five papers: —

1. Printed original sheets: Titlepage of "Summary," etc., 1749; Address to the Reader; and Table of Contents, 8 pp., with erasures, interlineations, and corrections in ink, certified as copy.
2. Printed sheets: pp. 235–238 inclusive of "Summary," erased, interlined, and corrected in ink, certified as copy.
3. Another set of printed leaves, duplicate of No. 1, *ante.*
4. Deposition of Gamaliel Rogers and Daniel Fowle, printers, as to delivery of "the sheets printed under the Title of a Summary, &c.," "and particularly No. 15. being delivered to them by William Douglass, in his supposed own handwriting, from time to time."
5. Copy of same Deposition, with a copy of the titlepage of No. 15 of the "Summary," made in manuscript annexed.

Volume CCCCII., Group-number 64662, Five papers: —

1. Same as CCCCVII., 65.550: 4, *ante.*
2. Same as CCCCVII., 65.550: 8, *ante.*
3. Same as CCCCVII., 65.550: 7, *ante.*
4. Same as CCCXCV., 63.469: 1, *ante.*
5. Same as CCCXCV., 63.469: 2, *ante.*

Volume CCCCIII., Group-number 64940, One paper: —

Copy of Record in Superior Court of Judicature upon the Appeal.

Volume CCCCVI., Group-number 65.515, Two papers: —

1. Deposition of Samuel Brown; and
2. Deposition of Joseph Hammond, two apprentices impressed on their way to Noddle's Island in a boat.

Mr. Henry H. Edes read the following correspondence[1] between Secretary Willard and Commodore Knowles: —

Sir, — I doubt not but you will condescend to allow me the Freedom to acquaint you with my Grief & Surprize to hear the Name of God prophaned yesterday. It seems to me a great Unhappiness that the distinguished Reputation you enjoy (& I believe very justly) of a publick self denying Spirit & generous Love to your Countrey, and those Abilitys of Mind which render these Vertues in a Gentleman of your high Rank eminently useful to Mankind, should be in any Degree impaired by such a Practice. I presume you have observed the Sense which the Legislature of Great Britain has expressed of this too common Evil in their late Act for surpressing it. Because the Rules of Hospitality might seem to forbid my interposing in this Case yesterday thô with the greatest Modesty & Humility, I have chosen this Method to discharge my indispensible Duty as well to you as to that glorious Being upon whom I depend for every Moment of my Existence & for every Blessing which I enjoy, & at whose awful Tribunal I must very soon appear to receive the decisive Sentence of my eternal State.

I have the utmost Confidence of your Goodness to excuse this Liberty.

I remain with great respect & with sincere desires of your best Prosperity, Sir,

Your most humble, &

[J. Willard].

Boston, April 30th, 1747.

Sir, — I have the favour of Your Letter, and beg to assure You I receive Your kind admonition wth great Candor as I perswade myself You intended it; and am truly Sorry I shou'd transgress the Great Comands of Our Maker, as well as the Laws of Hospitality; permit me to assure You I have as great an Abhorence of the Crime as any man living has; and tho' I cannot charge my memory with the particular Subject I might

[1] Massachusetts Archives, liii. 231, 232.

do it upon; Yet I am perswaded it must have slipp'd from me or You cou'd not have laid it to my Charge; however do me the Justice S^r^ to believe that it is not a common Practice with me; and that I stand convicted, and shall have a more watchfull regard for the future;

I sincerly thank You for Your good Opinion of me, & kind wishes, and beg to assure You I entertain the Same Sentiments towards You, & am with great truth

Sir Your most Obed^t^. Hum^ble^ Ser^t^

CHA^s^ KNOWLES.

JOSIAH WILLARD, ESQ^R^.

In the discussion which followed, remarks were made by Mr. PHILIP H. SEARS, Mr. ANDREW MCFARLAND DAVIS, and Mr. EDWARD WHEELWRIGHT.

Mr. EDES then communicated some interesting facts connected with the ownership of the pews in King's Chapel at the time of the Evacuation of Boston. He also alluded to the fact, that, after the defeat of Braddock, Col. George Washington came to Boston to acquaint Governor Shirley with the particulars of the death of his son, whose life was lost in that engagement. Mr. Edes stated that Washington attended service in King's Chapel during that visit, and sat in the State Pew.

Messrs. JOHN WARD DEAN, of Medford, and RICHARD MIDDLECOTT SALTONSTALL, of Newton, were elected Resident Members.

APRIL MEETING, 1896.

A STATED MEETING of the Society was held in the Hall of the American Academy of Arts and Sciences, on Wednesday, 15 April, 1896, at three o'clock in the afternoon, President GOULD in the chair.

After the Minutes of the previous Meeting had been read, the following Committees were appointed in anticipation of the Annual Meeting: —

To nominate candidates for the several offices, — Messrs. JAMES B. THAYER, JOHN CHESTER INCHES, and G. ARTHUR HILTON.

To examine the Treasurer's Accounts, — Messrs. SAMUEL JOHNSON and DAVID R. WHITNEY.

The Hon. GEORGE S. HALE communicated a copy of the Petition[1] of Martin Brimmer and five French Protestants praying to be admitted to citizenship in the Province, as follows: —

To His Excellency jonathan Belcher Esqr Governor & Commander in chief in and over his Majesty's Province of Massachusetts bay, to the Honorable the Council and the house of Representatives in General Court assembled

The Petition of the Persons hereto subscribed Sheweth that the Petitioners for the most part were forced to leave their native Country of France on account of the Protestant Religion in which they had been bred up and professed and for which some of the Petitioners have been greatly persecuted and distressed.

And farther the Petitioners most humbly remonstrate to your Excellency and to this great and General Assembly that the most part of them have for almost the space of forty years or upwards (during which time they have chieffly resided in this Country) behaved themselves iustly

[1] Massachusetts Archives, xi. 488. Cf. *ante*, p. 200, and 1 Massachusetts Historical Society's Proceedings for June, 1859, iv. 349–353.

to their neighbours, and in their respective callings with unshaken fidelity towards the Gouvernement here and the Crown of Great Britain, and have been allways subiected as well as to pay rates and taxes, as also to bear offices of Constable &c which several of them have sustained and executed with great faithfulness, in their respective dutys; so that They hope by the favour of this great and General Court (which is well known at all times to act with great equity and to relieve where They can the distressed) that as They have been always subiect to do dutys, so They may be intituled to all the privileges of a Denisen, or natural born Subiect of his Majestys so far as is consistent with the power and iustice of this great and General Court. jt being what hath been generaly practiced by most Nations of Europe in favour of the French Protestant Refugees but more particularly by the Crown of Great Britain, and the dependent Colonys, as the Petitioners can prove by many instances. Therefore upon the whole the Petitioners do humbly pray an order of this great and General Court to confer upon them the rights and privileges of Denisens, or free born Subiects of the King of Great Britain, or be otherwise relieved, notwithstanding any law usage or custom to the contrary, or that They may be farther heard by the Council in the premises; They say relieved as this Great and General Court shall judge meet; And as in duty bound your Petitioners shall ever pray &c.

ANDREW LE MERCIER
DANIEL JOHONNOT
ANDREW SIGOURNEY S^{er}:
JOHN: PETEL
ADAM DUCHEZEAU.

the same fauour is humble Desired By
a protestant German Came from Hanover MARTIN BRIMMER

This petition was read in the Council, 25 February, 1730, when it was —

Ordered that the Prayer of the Petition be so far granted as that the Petition^{rs} together with all other foreign Protestants Inhabitants of this Province Shall within this Province hold & enjoy all the Privileges & Immunities of His Majestys natural born Subjects And that they have Leave to bring in a Bill accordingly.[1]

In this the House concurred the next day, and the result was the passage of Chapter 9 of the Acts of 1730–31.[2]

[1] In the Council Records (xv. 24) the name of the fifth petitioner is entered as "Andrew Duckerman." [2] Province Laws, ii. 586, 595.

Mr. George Lyman Kittredge gave an account of the rescue in Barnstable of a barrel of old papers which one of the residents was about to destroy, among which, upon examination, were found several letters containing interesting information concerning the state of affairs in Boston during the Siege. Some of these letters Professor Kittredge promised to communicate to the Society at a future meeting.

Mr. Abner C. Goodell, Jr., presented a copy of the Supplement to the Early Acts and Resolves of Massachusetts from 1780 to 1806, to which reference was made at the February Meeting of the Society. This volume, prepared by our associate Mr. Bacon, contains three hundred and fifty-eight Resolves, Orders, Proclamations, Messages, and other legislative papers, not included by the Secretary of the Commonwealth in the first two volumes of the authorized edition of the Laws issued under his supervision by authority of Chapter 104 of the Resolves of 1889.

Mr. Henry E. Woods reported the organization of the following named Historical Societies in Massachusetts: —

THE HARVARD MEMORIAL SOCIETY.

On 7 May, 1895, a Society was formed among the undergraduates of Harvard College, the purpose of which was stated to be "to foster among students interest in the historical associations of Harvard, and to perpetuate the traditions of her past."

The following extracts from a circular issued by the Society will explain the intentions of the founders: —

A primary object of the Society will be to secure courses of lectures by distinguished men on subjects connected with the history of Harvard, and on famous Presidents and Graduates. Lectures will be arranged on Harvard during Colonial Days, the Revolution, the Early Half of the Century, and the Civil War. Another object of the Society will be to mark rooms or sites of rooms in college buildings once held by famous Graduates, by means of tablets of bronze or stone, transmittenda, or otherwise. Other sites of historic interest connected with the University will be properly marked if possible. Arrangements will be made for the

collection of pictures, books, and manuscripts connected with the past of the University and the proper disposal of the same, so that they may be easily accessible. The endeavor of the Society will be to inspire a deeper feeling of interest and reverence for the associations and traditions of Harvard, to make the students more sensible of their obligations to those who have made Harvard what she is, and to make them acquainted with the part the University and her Graduates have played in the history of the country.

It is the purpose of the Society to admit to active membership only Officers of the University and Members of the Senior Class. A limited number of men distinguished for their devotion to the interests of the University will be elected as Honorary Members. Loyalty to Harvard past and present is the first requisite for membership, and it is hoped that membership in the organization will be deemed an honor and a privilege.

The proper marking of the rooms and historic sites will require a considerable amount of money, which must be collected by subscription. The Curator will be glad to receive any pictures, books, or articles of interest in any way connected with the history of the University; and the Treasurer will be pleased to receive any subscription which may be made towards supporting the work of the Society.

BROOKLINE HISTORICAL PUBLICATION SOCIETY.

A Society with the above name was formed in May, 1895. Apparently it has no other organization than a Standing Publication Committee and a Treasurer, and no other printed or written statement of its objects than is contained in the following prospectus, which was issued at that time: —

The Brookline Historical Publication Society is organized to collect and print in a uniform series such manuscripts and materials not readily accessible as shall seem worthy of permanent preservation.

There shall be a Publication Committee of three to decide upon all matters suggested by the aims of the Society.

The object of the membership is to provide funds to carry on the work of the Society, and each subscriber of the annual fee of one dollar ($1.00) will receive free all publications of the Society.

Miss ELLEN CHASE,
DANIEL S. SANFORD,
CHARLES K. BOLTON, *Treasurer*,
Standing Publication Committee.

N. B. — Subscriptions may be sent at once to the Treasurer at the Public Library.

The Society has been quite active during its brief existence, and has published — I. A letter from Rebecca Boylston; II. The Sharp family papers; III. Brookline in the Revolution; IV. Papers of the White family; V. Roxbury Church records relating to Brookline. Other work is in preparation.

A full account of what this Society is doing, and of kindred work which is being accomplished in the Brookline schools, was published in the New England Magazine, and subsequently reprinted in a separate pamphlet[1] by Charles Knowles Bolton, the present Treasurer of the Society.[2]

THE OLD BRIDGEWATER HISTORICAL SOCIETY.

An Historical Society with this title was organized at Bridgewater, and incorporated 18 July, 1895. Its purpose is "the collection, preservation, and publication of material which shall contribute to the history of the Colonial Township of Bridgewater."

MENDON HISTORICAL SOCIETY.

An Association known by this name was organized 18 February, 1896. The objects of the Society as set forth in the Constitution are, "to cultivate and encourage among its members a love for historical research, the accumulation and preservation of all matters of a historical nature relating to the town of Mendon since her first settlement in the year 1659, together with those relating to her daughter towns which have from time to time established their own government, and also the collection and preservation of antique relics of every description in any way connected with the past of either of these towns."

Membership is open to any person who shall be regularly elected, and who shall sign the Constitution. Four meetings are provided for each year.

SOUTH BOSTON HISTORICAL SOCIETY.

An Organization with the above name was effected 24 March, 1896. The objects of the Society are to see to it that historical

[1] Its title is, "What a Small Town may do for Itself."

[2] The Lawrence Society of Natural History and Archæology was incorporated at Lawrence, 8 March, 1895. Its purpose is "to promote the study of natural history and archæology."

locations in that District are properly cared for, and in the course of time marked with suitable tablets; and also to promote good-fellowship and the furtherance of a social feeling among the residents of the District.

Mr. ANDREW MCFARLAND DAVIS read the following account of a suit begun at the York term of the Court of Common Pleas, in 1734, in which the Superior Court of Judicature twice refused to obey the Order of the King in Council.

FROST *v.* LEIGHTON.[1]

York ss. 1734.

In 1803 the Supreme Court of the United States was called upon in Marbury *v.* Madison[2] to discuss the question whether that Court could exercise authority conferred upon it by Act of Congress, but not warranted by the Constitution. The decision reached by the Court was that a law repugnant to the Constitution was void. The importance of this claim on the part of the Court, that under its power to interpret the Constitution the deliberate action of Congress in passing a law, and of the Executive in approving the same, could be annulled and made of no effect, compelled an elaborate justification of the position taken by the Court. Long years of acquiescence in the conclusion then reached have obscured the fact that the question, when it arose, was a novel one. Precedents of interpretation were then mainly derived from English Courts. In England Parliament was paramount, and the power of

[1] My attention was called to this suit by Mr. William P. Upham, who is engaged in arranging the old papers in the Suffolk Court Files. If they shall prove to have the value to students of Constitutional Law which I attribute to them, my gratitude to Mr. Upham for this service on his part will readily be appreciated.

I wish also to express my appreciation of the many courtesies received from our associate Mr. John Noble, while examining these and other papers under his charge at the Suffolk office. The admirable arrangement of the papers, and the manner in which they have been mounted for reference, leave nothing to be desired on the part of historical students.

[2] 1 Cranch, 137. The student of Constitutional Law will find an excellent abstract of this case in Cases on Constitutional Law, by our associate James Bradley Thayer, Cambridge, 1895.

the Courts was limited to the interpretation and enforcement of the laws. Experience under written Constitutions was practically limited to this country, and to the few years which had passed since the Revolution. The able, exhaustive, and convincing opinion of Chief Justice Marshall in this case depends almost exclusively upon the reasonable nature of its own statements and the convincing power of their logical presentation.[1]

For many years students of Constitutional law have indulged in speculations as to the possible effects on the minds of the jurists of the day of the appellate powers lodged in the Privy Council. In the early charters granted to royal favorites and merchant adventurers, the theory prevailed that the affairs of the distant settlements were to be administered by a home company, and the restraining clause that no laws should be passed which should be repugnant to the laws of England was deemed adequate protection for the maintenance of the supervisory power of the government. After it was found that under these clauses the Colonists disputed the rights of aggrieved parties to appeal to the Crown from the decisions of the local courts, more explicit reservations on this point were made in Provincial Charters.[2] There was no provision in the Charter of Connecticut for appeals to the Privy Council. Nevertheless, when the point was raised in Winthrop *v.* Lechmere that a law passed by the Assembly of Connecticut was void because it was contrary to the laws of England and not warranted by the Charter of the Colony, the appeal, although not allowed by the Connecticut Courts, was entertained by the Privy Council, and the Act in question was declared to be null and void.[3] In this

[1] The early cases under State Constitutions where the question of the constitutionality of a law was under discussion have been collated by Professor Thayer in his Cases on Constitutional Law. Holmes *v.* Walton, a New Jersey case in 1780, mentioned in a note on page 62, is said to have been an important case, and to have been discussed in the Constitutional Convention. See also Trevett *v.* Weeden, Rhode Island, 1786, page 73 *et seq.*; Den d. Bayard and Wife *v.* Singleton, North Carolina, 1787, page 78 *et seq.*: and Van Horne's Lessee *v.* Dorrance, Circuit Court, Pennsylvania District, 1795, page 94 *et seq.*

[2] The question of appeals from Colonial Courts was fully discussed by Harold D. Hazeltine, in 1894, before the American Historical Association. (Annual Report of the American Historical Association for the year 1894, pp. 299–350).

[3] It seems to me that Palfrey is disposed to underestimate the importance of this case. He speaks of the reservation in the Charter to the effect that the Leg-

case it will be observed that it was the Privy Council exercising appellate powers, which decided that the Act was void because opposed to a clause in that Charter. In what follows in this paper I propose to give the history of a case in our own courts in which the Superior Court of Judicature of the Massachusetts Bay twice refused to carry out a Royal Order, issued by his Majesty in Privy Council, giving as a reason for such refusals that the Charter of the Province did not confer upon them powers which would enable them to obey the order. We are left to an inference, based upon the brief of the attorney for the plaintiff, to determine why the Court concluded that they did not have power to carry out the Royal Order. The case was one which did not of right carry with it an appeal to the Privy Council, and the Province Court denied the motion for an allowance of the appeal. Nevertheless, the Council entertained the appeal; and afterward, in the hearing before the Superior Court of Judicature, upon the presentation of the Royal Order, the attorney for the plaintiff made the point that the Privy Council had no right to hear the case on appeal. The Court evidently adopted this view of the question, and regarded the Royal Order, not as a determination of the case on appeal, but as an order in a proceeding which had its origin in the Privy Council. The order of the Privy Council was to the effect that the Court should compel the plaintiff to refund certain moneys to the defendant, and that he should be permitted to plead anew in the proceed-

islature could make no laws contrary to the laws and statutes of the realm of England, as "a provision which had little practical significance" (History of New England, ii. 541). When he discusses this case he says, "Winthrop's wife produced to the Governor a record of an Order of the King in Council, overruling that action of the Connecticut Courts of which Winthrop had complained; and the Assembly ordered the Secretary to proceed to put Winthrop in possession of the land claimed by him, as soon as the bounds and qnantity of said land should be ascertained." Notwithstanding this practical application of the determination of the Privy Council, he then goes on to say: "Connecticut could not be brought to accede to the determination of the Privy Council. And at length, nearly twenty years after the adverse decree of that body, the Provincial law was sanctioned by a decision of the Council, under advice of the Crown lawyers" (*Ibid.* iv. 578). The Crown lawyers were of opinion that this reservation was of force, and that any law which violated it was null and void" (Chalmers's Opinions, London edition, 1814, i. 347, 354). This last opinion ends as follows: "If any laws have been there made, repugnant to the laws of England, they are absolutely null and void."

ings. If the appeal had been regular in form, this order might perhaps have been acceptable to the Court. If the case was not properly before the Privy Council, then the Court could say, as they did, There is no provision in our laws for any such proceeding as this order calls for.[1]

In Marbury *v.* Madison the Supreme Court, exercising their power to interpret the Constitution, decided that under that instrument no authority was conferred upon the Supreme Court in the exercise of original jurisdiction to issue a mandamus. The Act through which Congress attempted to confer upon the Court that power was void, because Congress could not add to the powers of the Court.

In Frost *v.* Leighton the Superior Court of Judicature, interpreting the Charter and the laws through which they derived their powers, decided that they found no authority by any law of the Province or usage of the Court to enforce the order issued by the King in Privy Council. It did not need that they should add that their powers could not be enlarged through a Royal Order.

Under the Charter of the Province of the Massachusetts Bay all trees of the diameter of twenty-four inches and upwards, at the height of twelve inches from the ground, growing on any tract of land within the Province which had not on the seventh of October, 1691, been granted to any private person, were reserved to the Crown for the better providing and furnishing masts for the Royal Navy.

On the nineteenth of June, 1730, a license was granted by the King to Ralph Gulston[2] of the City of London, merchant, his

[1] "His Majesty cannot, by law, give a direction to any court for to rehear any cause depending therein, but rehearings are granted, or denied, by courts of equity, on petition of the parties grieved, to such court as shall be judged proper." (From the opinion of Edward Northey, given to the Board of Trade, 19 December, 1717, in Opinions of Eminent Lawyers on various points of English Jurisprudence, chiefly concerning the Colonies, Fisheries, and Commerce of Great Britain. Collected, and digested from the originals, in the Board of Trade, and other depositories. By George Chalmers, Esq., F. R. S. and S. A. London, 1814, ii. 177. This work is generally cited as Chalmers's Opinions.)

[2] I am indebted to Mr. Edward M. Borrajo of the Guildhall Library, London, for the following information concerning Ralph Gulston: —

"In the Gentleman's Magazine (ix. 161) the death of Ralph Gulston, Esq., Turkey Merchant, is recorded under date March 11, 1739. This Gulston was a member of a

agents and workmen, to search the woods in the Province of Maine and Colonies of New England, where the property in any woods or trees and the right of cutting them were reserved to the Crown, and there to cut down as many good and sound trees as might answer the number and dimensions expressed in a certain contract, which the said Gulston had entered into for furnishing the Royal Navy with masts. For the purpose of carrying out this contract, Gulston appointed Samuel Waldo of Boston his agent; and Waldo in turn employed one William Leighton, a resident of Kittery, to superintend the actual cutting and loading of the masts. In the performance of this work, Leighton with a gang of men went into some woods in Berwick in the winter of 1733–34, taking with him his logging-teams. He erected a wigwam, and when finally camped and ready for the season's work, began cutting trees. He felled a number of pine-trees and hauled them away; and in order to facilitate this process he also cut down a great number of small trees of various kinds, which were used for beds for the large trees. The land upon which these woods stood when Leighton entered upon his work formed a part of a farm in Berwick containing about five hundred and twenty acres, known as the Caroline Farm, and belonging at that time to one John Frost of Berwick. It was alleged that at the time when the Charter of William and Mary was granted, the title to these lands was in the Crown.

John Frost, the owner of the land, becoming cognizant of the acts of Leighton, brought suit against him on the fourth of March, 1733–34, in the Inferior Court of Common Pleas, laying his damages at two hundred pounds. The plea was trespass, and the writ was returnable at the April term of the Court to be held at York. Frost alleged that Leighton had with force and arms entered upon his farm and cut down seven pine-trees, each of three feet in diameter, and each of the value of ten pounds, and that of these he had hauled away six. The cutting was also alleged of

distinguished family which traces its pedigree from Sir Ralph Gulston, knighted on the field of Cressy by the Black Prince, A. D. 1346; he was the second son of William Gulston, and grandson of Joseph Gulston, Dean of Chichester, Chaplain and Almoner of Charles I., and present with him at his execution. Ralph was born in 1684, and appears to have died without issue. That this Ralph Gulston was identical with your man seems probable. I may add that the address given in a directory of the time is 'Great St. Helen's.'"

Mr. Henry E. Woods was kind enough to look up this matter, and through independent sources of information reached the same conclusion as Mr. Borrajo.

one other pine-tree, of four beech-trees, one maple-tree, four hemlock-trees, twenty beech-trees or poles, three spruce-trees or poles, five maple-trees or poles, and two black birch-trees or poles. The total value of all the trees and poles thus cut was stated to be £120. Frost asserted that they were his property, and that they were cut without his permission.

The April term of the Court of Common Pleas for York County in 1734 was held on the first Tuesday of that month. Leighton put in an appearance, through William Shirley his attorney, and for plea admitted and defended the force and injury, but pleaded not guilty to the coming with force and arms; and of that he put himself on his country. As to the cutting down of the trees as alleged, he admitted that he, as a workman of Gulston, by direction of Waldo his agent, acting under the license granted to Gulston, had entered into a part of the woods in the Province of Maine, which had not been granted to any private person before the seventh day of October, 1691, and had cut down the pine-trees, and also the other trees and poles, in order to the felling and carrying away of the said seven pine-trees, the cutting down of the other trees being absolutely necessary for that purpose. He recited the rights of the Crown reserved in the Charter to trees upon unoccupied lands, proffered the license granted to Gulston June 19, 1730, and alleged that the seven pine-trees which had been cut down had been first viewed and allowed by David Dunbar, Esq., Surveyor-General of his Majesty's woods on the Continent of America. For these reasons he pleaded that Frost ought not to have any action against him, and he prayed for judgment on this point.

On these papers the case came on for trial. The defendant contended that the failure of the plaintiff to reply or demur to his plea was an admission of the facts stated in them; but the Court thought otherwise, and called upon the defendant to make some other plea. This the defendant refused to do, and the Court thereupon awarded judgment against him. In a petition subsequently made by Leighton to the Privy Council, this proceeding is described in the following language: —

"Whereupon it was considered by the Court, instantly and immediately (without any proofs of the Plaintiff's property, or any proof of the supposed damages, or value of the same, or referring it to a Jury to

enquire of the Plaintiff's pretended damages) that the Plaintiff should recover of the Petitioner a particular sum of one hundred and twenty one pounds damages, and costs of Court taxed at forty shillings."

Shirley, on the fourth of May, 1734, filed his reasons of appeal, which were that the judgment was wrong and erroneous; that the action ought to have been barred upon the plea in bar; and that the trees mentioned in the writ were not the property of the plaintiff, but belonged to the Crown, and that the defendant had lawful authority to cut them down and haul them away. The case was heard by the Superior Court of Judicature, June 19, 1734, and the opinion of the Court was delivered as follows: —

"The Court is of opinion that the Defendants plea containing sundry matters of fact triable by Jury, should have concluded to the Country or the defendant have pleaded the General Issue & given the special matter in evidence. It's therefore Considered by the Court that the former Judgment of the Inferior Court be & hereby is affirmed & that the Appellee recover against the Appellant costs of suit."

Execution was thereupon issued, and the amount of the judgment was collected from Leighton. It is obvious from this that Shirley's pleadings were considered by the Court defective. It is not unlikely that he was anxious to avoid submitting his case to a jury; but whether the decision of the Court upon this point of practice was erroneous, or Shirley was at fault, he lost his case. He at once moved for an appeal to the Privy Council; but this the Court refused, saying that in their opinion an appeal would not lie in this case. The reasons of the Court for this opinion are not stated in the order of the Court denying the appeal; but it is evident that they were grounded upon the clause in the Charter which allowed appeals to the Privy Council as of right where the matter in difference exceeded the value of three hundred pounds sterling. In this case, the judgment was for only one hundred and twenty-one pounds and costs.

Gulston, the contractor, then appealed to the Duke of Newcastle, who, on the third of October, 1734, wrote to Governor Belcher enclosing the complaint. Belcher laid the matter before the General Court, and on the ninth of December wrote the Duke of Newcastle, enclosing a printed account of the steps taken for the

preservation of his Majesty's woods.[1] Referring to the case under consideration, Belcher added in his letter, —

"As I have been always ready to do everything in my power to protect the Kings right in the woods and to prevent from waste and Spoil so I shall still by giving assistance and encouragement to the contractors workmen in the legal execution of their buſineſs and by doing what in me lyes to put a stop to any unjust and vexatious prosecutions against them. But your Grace is very sensible that its not in the power of a Govr to stop the course of the law and should a war happen I shall when I think there is any foundation give the Contractors workmen what protection I can against the French and Indians."

Leighton then petitioned the Privy Council for a hearing before them on appeal. The date of this petition is not known, but it is not probable that the petition was long deferred. The prayer of the petitioner was not granted until 9 July, 1735. Leighton then filed his petition for a reversal of the judgments in the Province Courts, and for the restoration to him of the money which had been collected on execution, and for other relief in the premises. On the thirtieth of July, 1735, the appeal was referred to the Right Honorable the Lords of the Committee of Council for hearing Appeals from the Plantations; and on the second of April, 1736, they reported, saying that they had heard all parties concerned by counsel learned in the law, and that they humbly agreed to recommend to his Majesty (by the consent of all parties) that both judgments should be reversed; that the money collected of Leighton should be restored; that the appellant should withdraw his plea, plead not guilty, and upon the general issue be at liberty to give any special matter in evidence. They further recom-

[1] 6 Massachusetts Historical Collections (Belcher Papers), vii. 479. Letter, 9 December, 1734, to the Duke of Newcastle, etc. This letter is as follows: —

May it please your Grace:

The 18: of last mo: I rec'd the honour of his Majestys commands by y^r^ Graces letter of the 3^d^ of October respecting a complaint made by Mr Gulston the contractor for supplying His Majestys Navy with masts from this Country which letter with the copy of the Complaint inclos'd by your Grace I first of all laid before His Majestys Council here and then before the General Assembly now sitting that the whole Legislature might exert themselves in an affair that so highly concerns the good of the service and the inclos'd print will give your Grace an account of the particular steps taken for the better preservation of His Majestys Woods.

Then follows what is quoted in the text.

mended that upon such new trial the evidence should be reduced to writing and recorded with the verdict, and that an appeal to the Privy Council from such verdict should be allowed to either party. This report was submitted 29 April, 1736, and the King, with the advice of the Privy Council, approved of the same, and ordered that it be duly and punctually observed and complied with. The Governor or Commander-in-Chief of His Majesty's Province of the Massachusetts Bay, and all others whom it might concern, were ordered to take notice and govern themselves accordingly.

The Royal Order having been obtained, the scene of action was transferred to the other side of the Atlantic. Leighton also made a change in his attorney, and William Bollan was employed to present the Royal Order and secure from the Court the orders necessary to make it effectual. At the September term of the Superior Court of Judicature, Court of Assize and General Gaol delivery, held at Bristol, William Bollan appeared in behalf of Leighton, and on the eighteenth of the month presented the Royal Order, and moved that the Court should issue execution against John Frost for the sum of £125 18 *s.* paid by William Leighton to him on the execution issued by the Superior Court in 1734 in the suit of Frost *v.* Leighton, so that the said Frost might be compelled to restore this sum to the said Leighton according to his Majesty's order, and also that the said order might be observed and complied with in all respects, duly. The Royal Order was publicly read in Court, and the clerk was directed to enter it in the records of the Court; but further consideration of it was deferred to the June sitting of the Court at York, in 1737. Bollan's motion, originally made at Bristol, 18 September, 1736, was renewed at York the twenty-second of June, 1737, and the decision of the Court thereon was expressed in the following language: —

"Upon reading the above motion the subject matter whereof requiring the most mature consideration the Court will advise thereon until their next sitting."

In the docket of the Superior Court of Judicature there is an entry under date of 20 June, 1737, which was subsequently crossed out, which would seem to indicate that the Court had at one time concluded to hear arguments as to whether the Royal Order could be carried out. The language of the crossed-out entry is as follows: —

"The Court took the Royal Order into consideration & are of opinion that if the sd Will[m] Leighton expect any order from this Court thereupon he ought to take out a sum̄ons from the Clerks office of this Court & returnable as other procefs is to notify the sd John Frost to shew [cause] if any he has why the said Order of His Majesty should not be complied with on the part [of the said] John Frost; Upon the return of wch sum̄ons & hearing [the parties concerned] this Court will then be able to make such further order in the prem[ises as] to Law & as to Justice appertains."

On the next page the decision of the Court deferring action was entered in the margin under date of 22 June, 1737. The next that is to be heard of the case is at the sitting of the Superior Court held at York on the third Wednesday of June, being the twenty-first day of said month, Anno Domini 1738, when the Court rendered the following decision: —

"The Court having advised upon the said motion till this term do now in answer thereto say that in case the Action mentioned in the said Royal order come upon trial again before this Court in the manner directed to this [Court] shall endeavor to do what to Justice appertains, but as to giving an Order for an execution against John Frost as prayed for, The Court having considered the Royal Charter together with the Laws of this Province and the Constant Usage & Practice of this Court are of opinion that they have no Authority to give order for such an execution."

Leighton had filed the Royal Order in the Superior Court, and moved for an execution, so that the same might be duly enforced, in September, 1736. It had taken nearly two years to secure a decision from the Court; and when after all this delay the decision was promulgated, the attitude of the judges was found to be so defiant as to put an end to all hopes of securing the restoration of the money through the agency of the Court. Leighton therefore now turned to the Governor of the Province. A petition was addressed directly to that official by William Bollan, attorney for William Leighton, in which a detailed statement of the various proceedings in Court and Privy Council in the case of Frost *v.* Leighton were fully set forth. The petitioner averred that he resorted to the Governor of the Province to cause the order of his Majesty to be observed and complied with, and to that end he

caused to be delivered by his attorney to his Excellency the original order of his Majesty in Privy Council.

The Royal Order was addressed in particular to the Governor of the Province, and in a general way to all whom it might concern. The Governor was the direct appointee of the Crown, and, irrespective of the fact that he was specially mentioned in the order, might be relied upon to carry out the wishes of the Crown so far as they were practicable. He could certainly be counted upon in a matter in which so much interest was taken at Court as the question of the supply of the royal navy with masts. There was method, therefore, in Bollan's addressing his petition to the Governor alone, and not to the Governor and Council. Belcher was not, however, to be caught in this net. However much he might wish to sustain the rights of the Crown, he knew that the cutting of trees for masts for the royal navy was a burning question with the residents in Maine, and that any overt act on his part would make him unpopular. He therefore laid this petition before the Council on the fourteenth of September, 1738, and they thereupon considered the matter, and said that inasmuch as Leighton had sought a remedy in the Courts and had made no application to his Excellency till after the proceedings in the Superior Court, the Board were of opinion that it was not proper for his Excellency to do anything in the affair. This solution of the perplexities of the situation being entirely in accordance with Belcher's wishes, he himself indorsed upon the petition his approval of the action of the Board in the following words: —

"The foregoing advice of His Majesty's Council being agreeable to my own Sentiments I am prevented doing any service in this affair.

Septem^{r} 18: 1738. J. BELCHER."

Thwarted in his attempts to enforce the Royal Order through the refusal of the Courts of the Province to carry them out, and through the refusal of the Governor to intervene, Leighton's position seemed hopeless. However powerful the influences which had sustained his side of the case, which had led the Privy Council to entertain an appeal which did not come within the definition of those allowable under the Charter, and which had produced an order of the Privy Council imposing upon the Superior Court of

the Province duties beyond their powers under the Charter, he seemed to have exhausted his resources without accomplishing his design, and to be to all intents and purposes absolutely helpless. The stake was, however, too great to be abandoned without another effort. Neither the King, the Privy Council, nor the contractor could afford to let the impression prevail that they would yield their rights under the Charter to cut masts for the navy in the Maine woods, without putting forth every effort which lay in their power to protect them. Feeble as the chances seemed of accomplishing anything through the Privy Council after the Province Courts had deliberately refused to carry out the Royal Order, nevertheless, the next step was to petition that body for relief, and that the former order might be enforced.

This petition was presented 21 December, 1738. It recites the former proceedings, which concluded with the Royal Order, and then rehearses the attempts made by Leighton to secure its enforcement; avers that the order of the Court declaring that the subject required the most mature consideration, and referring this consideration to their next sitting, delayed the petition "another whole year;" recites the final decision of the Court, and then adds that the Superior Court, having thus taken near two years to consider whether they would obey his Majesty's said order or not, and having at length declared they could not pay obedience to it, the petitioner had no other resort in that country but to apply to his Majesty's Governor there (who was particularly charged to take notice of such order and govern himself accordingly); alleges that in the hopes that the Governor might make use of the authority with which he was invested, the petitioner presented a petition to him praying him to enforce the order, this petition being accompanied with the original Royal Order in the case; and states that notwithstanding this direct appeal to the Governor, he saw fit to refer the matter to his Council, a body not composed of appointees of the Crown, but of members elected from time to time by the Assembly. The action of the Council is then recited, and the statement is made that the Governor, on the eighteenth of September, approved this action with his own hand. The petitioner then goes on to say that in this very extraordinary manner, his Majesty's said judicial order, made with the advice of the Privy Council, after the solemn hearing of the parties upon the appeal, had been deliberately

and contemptuously defeated in the Massachusetts Bay, and all obedience thereto refused by the said Superior Court, by the Council, and by his Majesty's own Governor of that Province, who had been particularly charged to take notice thereof, whereby the Petitioner was very greatly injured and aggrieved, and that in a case where he (at his own expense) was laboring to support his Majesty's right to the woods reserved for the use of his royal navy; and not only so, but his Majesty's Royal Authority had been wholly set aside, and more especially by the express declaration of the said Governor in writing that it was agreeable to his own sentiments that his Majesty's said order should not be assisted or carried into execution; which the Petitioner humbly represents as a matter of the highest consequence to his Majesty's just and undoubted authority in America, and the like instance whereof he conceived had not been heard of.

The petition was referred to a Committee of the Council, and counsel were heard as well in behalf of the petitioner as of the Governor, Council, and Superior Court of Judicature of the Massachusetts Bay. On the twenty-third of February, 1738–39, this Committee reported that the Royal Order had not been carried into execution either in the whole or in part, and on the twenty-second of March, 1738–39,[1] it was ordered by his Majesty in Council that—

"the said former order, made by His Majesty at this Board on the twenty-ninth of April, 1736, upon the petitioners appeal against John Frost, be forthwith, and without delay, carried into execution, and that the said John Frost do immediately restore to the petitioner the money paid to him for damages & costs, and in case he shall refuse to comply therewith, that the Superior Court in the said Province do take the necessary steps to compel him thereto."

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[1] Thinking that possibly there might be something among the Privy Council Records which would throw some light upon these proceedings, I made application to the Privy Council Office for information upon the subject. I am indebted to the courtesy of Mr. Thomas Preston, Record Clerk, for the following: —

"The Registers contain just bare minutes of the proceedings & the orders. The dates are as follows: —

Heard	2 April 1736
Pet^{n} to enforce order	21 Decr 1738
Report & order	23 Feb 1738
Further order	22 Mar 1738"

The Courts were instructed to record this order as well as the former order; and the Governor was required to support his Majesty's authority, and to cause every particular in the order to be, without delay, duly and punctually complied with. Fortified with this second order, Bollan, in behalf of his client, on the fifth of June, proceeded to make a demand on Frost as a preliminary for further proceedings. For this purpose he procured one Theodore Atkinson of Portsmouth to deliver, in behalf of William Leighton, the order of his Majesty in Council of date of 22 March, 1738–39, to John Frost, and at the same time Atkinson also delivered a power of attorney executed by Leighton, authorizing Atkinson to demand and receive the one hundred and twenty-one pounds damages, and four pounds eighteen shillings costs of suit which had been collected from Leighton. Frost delivered these papers to his attorney, one Noah Emery, who then and there read them word for word to Frost. Atkinson then demanded payment, and offered to give proper receipts, discharges, or acquittances. To this demand Frost replied, —

"I will not repay the said sums nor any part thereof but will stand the chance of an execution from the Superior Court."

Afterwards, on the same day, Leighton personally made the same demand of Frost, with the same result. Frost then returned the Royal Order and power of attorney to Atkinson. Having thus established a basis for further action, Bollan presented a petition to the Governor, in which he recited the facts of the case which had taken place up to date. He announced his intention of appearing before the Superior Court at York at their sitting in June, in order that he might move for an execution, and also of appearing before the Inferior Court at their sitting at York in July in order to move for permission to change his plea. He presented the second Royal Order for the Governor's inspection, and prayed him to support his Majesty's authority. This petition was referred to the Council, and on the fifteenth of June they voted to recommend the Courts to proceed without delay and do that which to law and justice appertains. The Royal Order was returned to Bollan on the sixteenth of June. On the twenty-first of June, at a sitting of the Superior Court held at York, Bollan submitted this document to the Court. The Clerk of the Court, with sublime disregard for the

part which the Court had taken in the contest, indorsed upon the back of the Royal Order, —

"His Ma^{tys} second order in Councill on the Petic̃on of Wm Leighton complaining of the high contempt & disobedience shewn by Govr Belcher to his Ma^{tys} former order in Councill. This ord^{r} being produced by Mr Bollan was read in Court June 21st 1739.

Att$^{t.}$ S. TYLEY *Clerk.*"

At the same time Bollan presented a Memorial and Petition based upon the Royal Order praying for an execution against Frost in order that he might be compelled to restore Leighton his money according to the Royal Order. Frost, through Noah Emery, his attorney,[1] filed a written answer to this petition. He humbly

[1] Willis, in his History of Portland, gives us the following particulars concerning Emery: —

"Noah Emery of Kittery was for many years the only lawyer in Maine; he commenced practice about 1725, and although not regularly bred to the profession, he was a man of talents, a ready draftsman, and had considerable practice. On one occasion, between 1720 and 1730, an action of trespass was commenced in the Inferior Court of York by Matthew Livermore for the plaintiff. William Shirley of Boston, afterward Governor of Massachusetts, for the defendant, filed a special plea; but as special pleading was rarely used in that day and by the practising attorneys of those times little understood, and much less by the Court, the plea was answered by some *ore tenus* observations by the plaintiff's counsel, and the cause went to trial 'somehow or other.' The verdict was for the plaintiff, and the defendant appealed to the Superior Court, where the cause went again in favor of the plaintiff and execution issued. The defendant entered a complaint to the King in Council, and an order was issued thereon to set the whole proceedings aside, on account of the defective pleadings in the Inferior Court. The order of restitution was addressed to the Superior Court, and Mr. Auchmuty, an able lawyer of Boston, made an earnest application to the Court to have the order carried into effect; the Court was somewhat perplexed on the occasion, but Mr. Emery, as counsel for the plaintiff, drew up an answer to Mr. Auchmuty's petition, in substance as follows: That the Superior Court of Judicature was a court constituted by the law of the Province, whereby they were authorized to hear and determine such civil matters therein mentioned as were made cognizable by them, and to render judgment thereon, and to issue execution pursuant to their own judgment and not otherwise. And if counsel for the defendant in this case had obtained a different judgment from what appeared upon their records, he must go there for his execution, as they were not by law empowered to issue any execution contrary to the record of their own judgment. The Court were satisfied with

prayed that nothing in his reasons and in his objections there mentioned might be taken as any contempt of his Majesty's royal authority or as wilful disobedience of any of his Royal Orders, which he was then and always had been ready to obey in all things lawful and right as far as he understood them. For reasons why the Court ought not to grant execution, he alleged that under the Charter, power was given to pass laws and constitute courts. From the decisions of such courts appeals might be had to the Privy Council where the value of the matter in dispute exceeded three hundred pounds. In pursuance of this authority to create courts the Superior Court was duly constituted, and the act establishing it received the royal sanction. No power was conferred in this Act which would enable the Superior Court to issue an execution upon the judgment of another court; therefore the Court could not issue that execution. Further, it was provided that appeals from judgments in this Province to the Privy Council should lie where the matter in difference exceeded three hundred pounds. The defendant conceived that the meaning of this was that no appeal would lie unless the matter in difference should exceed three hundred pounds.[1] If an appeal from a judgment in this Province should be obtained contrary to the Charter and to the usage in the Province, and if the parties to the suit should enter into an agreement to re-

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this answer, and complimented Mr. Emery upon the manner in which he relieved them from their embarrassment. Mr. Auchmuty acquiesced in the decision." [Reference, Judge Sewall MSS.] (The History of Portland from 1632 to 1864: With a notice of previous settlements, colonial grants, and changes of government in Maine, by William Willis, second edition, Portland, 1865, pp. 616, 617.)

Notwithstanding the variations between the account of the above suit and the story of Frost *v.* Leighton, there can be but little doubt that this is an attempt to tell the story of that suit from memory.

[1] The Board of Trade were advised to the contrary by their counsel: "And as to the instructions given to the Governor mentioned in the petition, whereby he is restrained from allowing an appeal in any case under the value of £500 sterling, that does restrain the Governor only from granting of appeals under that value, notwithstanding which, it is in his Majesty's power, upon a petition, to allow an appeal in cases of any value, where he shall think fit, and such appeals have been often allowed by his Majesty." . . . (From the opinion of Edward Northey, 19 December, 1717, on a petition to the Board of Trade, by William Cockburn, from a decision rendered against him in Jamaica. Chalmers's Opinions, ii. 177).

verse the judgment and restore the money, still such agreement would not be binding on this Court, and the aggrieved party should pursue him who is faulty.

From the last point made by Emery it would seem that some claim was made by Bollan that the representative of Leighton had entered into some agreement before the Privy Council for the restoration of the money. This may explain the meaning of the words "upon the consent of all parties" which appear in the first Royal Order. We are, however, left to conjecture as to this, since Bollan's "memorial & petition" is not among the papers now on the files.

On the afternoon of the twenty-sixth of June the Court took the papers of the case into consideration, and rendered the following decision: —

"A Memorial and Petition having been presented to this Court on Thursday last by William Bollan Gent., in behalf of William Leighton, Gent[n] setting forth at large an order of His Majesty in Council of the 22[d] of March last, and thereupon praying for an execution against John Frost in order to compel him to restore to the sd William Leighton the sum of one hundred and twenty five pounds eighteen shillings according to His Majesties said Order.

"The Court now taking into their serious consideration the said Memorial & Petition together with the answer of Noah Emery Attorney at Law in behalf of the sd Jno Frost are of opinion, that they have no authority by any Law of this province, or usage of this Court to order such an execution; and the provision made in the Royal Charter respecting appeals to his Majesty in Council dos not as they apprehend, warrant any such execution, but points to a method of another nature in all appeals to be made conformable to the sd Charter. This was, in effect the Judgmt of this Court when they sat in this County the last year, upon a motion made by the sd William Bollan in behalf of the sd William Leighton to the same purpose, upon an order of his Majesty in Council dated the 29th of April 1736; and the Justices of this Court now present, see no reason to depart from that opinion. As to the said John Frosts bringing on a review, or an action de novo, that so the said William Leighton may withdraw his former plea and plead the General Issue &c. By the Constitution of the Courts of Justice in this province, the action must begin first at the Inferiour Court, and so come to this Court by Appeal, and the Justices of this Court, when such Appeal comes regularly before them will unquestionably endeavour that

Justice be done between the sd Leighton and Frost. And as to putting the Royal orders before mentioned upon the records of this Court, it appears by the Clerks minutes, that the Justices of this Court, receiving the first order, gave express direction for recording the same, and were surprised to find it was omitted, and they have now commanded that both the Royal Orders be forthwith recorded, and we shall take effectual care that the same be accordingly done.

"In the name & by the order of Court

"Samuel Tyley, *Cler.*"

With the sentence in the decision of the Court which reads, "The Justices of this Court now present, see no reason to depart from that opinion," the dramatic interest in this case ceases. Two orders of the King in Council proved no more convincing to the Court than one. The alternative was presented of acquiescence on the part of the Council or of attempting to punish the judges. The case has never attracted the attention of our historians; we may therefore conclude that the Privy Council decided not to proceed against the judges. Perhaps they were satisfied with the reasoning of the Court. It seems to me obvious that the conclusion of the Court as to Shirley's plea was either accepted by the Privy Council as good law, or they were willing to abide by the opinions of the Courts of the Province upon questions of practice like this. The decision was recited in the first Royal Order without comment, and the attempt was made to procure for Leighton some way in which he could avoid it by pleading so that he might offer his facts in evidence. While it is true that the dramatic character of the story ceases with the unflinching attitude of the Court when the second order was presented, there are one or two more facts in the case to be gained from the archives without which the story would be incomplete.

The decision of the Court was rendered on the twenty-sixth of June. The Inferior Court was to meet in York in July. A portion of the Royal Order was directed to that Court. Bollan therefore wished to get possession of the original order so that he might submit it to the Inferior Court. His motion to that effect was granted upon his promise that he would return the order to the Superior Court for record. The entry in the docket goes on to state that he received the said order the twenty-sixth of

June, 1739, that he might exhibit the same before the Inferior Court for the County of York at the next sitting, when motion was to be made by the said Leighton to change his plea according to his Majesty's Order aforesaid. This must have been a perfunctory performance on his part; for with the case transferred to the higher Court and the judgment there fully satisfied, there would not seem to be any way in which the Court could have granted such a motion. The order was, however, produced at the July term of the Inferior Court, and read and ordered by the Court to be recorded. Thus, practically, ended the case. Yet, once more, it raised its head. On the nineteenth of October, 1743, at Boston, the Justices of the Superior Court, having received a letter from Governor Shirley, complaining that the orders of the King in Council had never been carried into execution, gave order to the Clerk to prepare a draft of a summons or other process to notify the said John Frost, the party concerned, to show cause why the order of the King in Council, so far as it concerned him, had not been complied with, etc., and to lay the said draught before the Justices of the said Court, that so they might do what was proper thereupon. There is nothing to show that any further steps were taken. Even if there were, they would not be of interest to us. It will be noticed that the proposed process was to deal only with the question of Frost's obedience to the Royal Order.

A discussion followed the reading of Mr. DAVIS's paper, in which Mr. ABNER C. GOODELL, Jr., Mr. WILLIAM W. GOODWIN, and others participated.

Mr. SAMUEL JOHNSON called attention to a Decision of the Supreme Judicial Court of the Commonwealth affecting the Old South Society in Boston,[1] which was omitted from the printed series of Massachusetts Reports.

On the back of the original paper, in the handwriting of Mr. Justice Ames, is this memorandum: —

"*Mr. Reporter.*

As this case is one merely of fact, there may be no occasion to publish the opinion in the printed volume. S. A."

[1] *Cf.* Massachusetts Reports, cvi. 479–489, 489–498; cxix. 1–28.

The text of this Decision is as follows : —

Commonwealth of Massachusetts.

SUPREME JUDICIAL COURT.

IN EQUITY.

No. 858. Old South Society *v.* Crocker,
No. 859. Crocker *v.* Old South Society.

Suffolk. 29 March, 1876, 8 May, 1876.

Present: Colt, Ames, Morton, Endicott, Devens, JJ.
Absent or not sitting: Gray, C. J., Lord, J.

Ames, J. Under the decision already given in this case, the only question remaining for consideration is whether the proposed sale is reasonably required for the accommodation of the Society as a whole, and whether it can be carried into effect "without subjecting the minority to an unreasonable sacrifice of interest or convenience, or in any way working any injustice to them." 119 Mass. 1. This question is brought before us upon an appeal from the decree of a single justice, with a full report of all the evidence taken at the hearing.

It appears from the Report that in April, 1869, at a meeting of the pew proprietors, a vote was passed in contemplation of the purchase of a piece of land upon which a new house for public worship should at some time be erected. Under this and other subsequent votes a lot of land was purchased, and a Chapel and a Dwelling-house for the Minister were erected upon it. Since the great fire of November, 1872, the Society has wholly ceased to use the old Meeting-house as a place of public worship, and shortly after that date, by special authority conferred upon the corporation by Statute 1872, chap. 368, the building was leased to the United States for a post-office. And in April, 1873, it was voted that the new Chapel and Meeting-house should be "the regular place of meeting for the public worship of God."

It is insisted on behalf of the Corporation that however convenient and well adapted to its contemplated use the lot of land may have been at the time of the original gift, it has now become unsuitable and inconvenient. From the manner in which, under the authority given by Statute of 1845, chap. [229], all of the land except the Meeting-house and the land under it has since been occupied, it has become substantially impossible to erect upon it a Dwelling-house for the Minister; and the Chapel for the Sunday School is alleged to be inconveniently small and difficult of access. The place where the building stands has become one of the noisiest, busiest, and most crowded parts of the city.

The changes which result from the growth of a city, and the extension of warehouses, shops, hotels, and other places of business, or of public amusement, into localities once occupied by the dwelling-houses of families, are recognized as reasons which are sufficient to justify a religious society in the sale of its corporate property for the purpose of removing their place of worship to some better situation. *In re* New South Meeting House in Boston, 13 Allen, 497. Such a removal for such a cause is not a perversion of the trust upon which the property was held. In Sohier *v.* Trinity Church, 109 Mass. 1, a case in which real estate had been conveyed to a religious corporation "in trust to be used as a place of public worship," it was held that the Legislature might authorize the sale of the property in order to raise funds to build a new church upon another site which the corporation deemed more convenient and agreeable.

We do not find in the evidence reported any reason to doubt that the votes on the subject of the new lot of land and the new buildings were legally and honestly obtained. We find no proof of any fraud, or surprise, or want of notice. Their manifest purport is that the new place of worship was to be substituted for the old one, and that the old one was to be finally and entirely abandoned as their place of worship. We cannot suppose that they intended to maintain two distinct churches for two distinct and separate congregations. Nothing of that kind is required by the terms of the original gift.

Upon the question of the necessity or propriety of transferring their place of worship to the newly purchased land, and selling the old church edifice in order to pay the expense incurred in building the new one, the vote of the majority of the pewholders or members of the Society, although not decisive, is nevertheless a consideration entitled to great weight. It is an expression of the deliberate judgment of the trustees, who must be supposed to be well acquainted with the condition and necessities of the Society, whose integrity is unquestioned, and who are acting in promotion of what they suppose to be the true interest and wellbeing of the entire body.

We see no reason in the report of the evidence for reversing the decision of the Judge who has reserved the case for our determination. It is in our judgment clearly proved that the old building had ceased to be a convenient and eligible place of worship for this society (as the recognized beneficiary under the trust created by Madam Norton);[1] that the attendance upon the services in that building had greatly fallen off;

[1] The words in parentheses were inserted by Ames, J., without indicating where they properly belong. — GEORGE F. TUCKER, *Reporter of Decisions.*

that their numbers had declined, and that the prosperity and usefulness of the Society had been materially impaired in consequence of the disadvantages incident to the local situation of their church edifice. (It is not needful to inquire whether the old building is capable of useful appropriation to some other description of religious use, or for some other assembly for purposes of public worship.) We are satisfied that the proposed change was reasonably required for the accommodation of the Society as a whole, that it does no injustice to the minority and does not subject them to any unreasonable sacrifice of interest or convenience.

It is objected that the Petitioners ought not to gain any advantage in this litigation, by having built the new church at so heavy an expense, and thereby creating the necessity for raising a large amount of money from the trust property. It is true that they cannot thereby gain any advantage in court, but the view which we have taken of the matter does not depend upon any such consideration. We have endeavored to consider the question exactly as we should if the new lot of land had not been bought and the new church had not been built, and as if the proposition before us were merely whether the old building should be sold in order to build another with the proceeds, in another part of the city. It is also objected that the purpose of the sale is to build up a fund from the income of which the current expenses of the Society are to be paid. But we do not so consider it. It is, as already described, a sale of a church not adapted to the wants and circumstances of the Society, in order to build another better suited to their needs.

Whatever regrets therefore may be felt at the probable removal of a building surrounded by so many patriotic and historical associations, we are obliged to consider the case, solely with reference to the rights and interests of the immediate parties to this litigation. The rules which govern our decision must be exactly the same as if no special or peculiar sentiment of a merely patriotic character were associated with the building. In that aspect of the case, we see no reason for refusing the prayer of the petition.

Decree for plaintiff in No. 858. Bill dismissed in No. 859.

Mr. Appleton P. C. Griffin read the following paper dealing with the domestic and official relations which existed between Benjamin Franklin and John Foxcroft: —

The query, "Who was the Mother of Franklin's Son?" has for a long time occupied unavailingly the investigations of the biographers of Franklin; but it is only recently that another problem

in Franklin's family history has presented itself for the researches of the curious. The letter, a copy of which I now communicate to the Society, is very brief, but presents significant material upon the career of Franklin, with a sidelight on our Postal history.

As introductory to the reading of the letter, perhaps I cannot do better than to refer to the following marriage notice: —

"Last Thursday Evening, Mr. Richard Bache, of this City, Merchant, was married to Miss Sally Franklin, the only Daughter of the celebrated Doctor Franklin, a young lady of distinguished Merit. The next Day all the Shipping in the Harbour displayed their Colours on the happy Occasion." [1]

It will be observed that Miss Sally Franklin is called "the *only* daughter of the celebrated Doctor Franklin." Our letter introduces a new claimant to the honor of holding the title of "*daughter* of the celebrated Doctor Franklin."

PHILAD^{A} feb^{y} 2^{D} 1772

DEAR SIR

I have the happiness to acquaint you that your Daughter was safely bro^{t} to Bed the 20th ult^{o} and presented me wth a sweet little Girl, they are both in good spirits and are likely to do very well.

I was seized with a Giddiness in my head the Day before yesterday wch alarms me a good Deal as I had 20 ^{oz} of Blood taken from me and took Physick wch does not seem in the least to have relieved me.

I am hardly able to write this M^{rs} F joins me in best affections to y^{r}self and Comp^{ts} to Mrs Stevenson & M^{r} & Mrs Huson.[2]

I am D^{r} Si^{r}

Y^{rs} affectionately JOHN FOXCROFT

Mrs Franklin Mrs Bache little Ben, ye Family at Burlington are all well I had a Letter from ye Govr yesterday.

J. F.

[Addressed]

To Benjamin Franklin Esqr
at Mrs Stevensons in Craven Street
Strand
London

J: Free: Foxcroft }

To this may be added the fact, that in Bigelow's "Franklin" (V. 202) there is a letter from Franklin to Foxcroft which has a

[1] Pennsylvania Chronicle (newspaper), No. 41, from Monday, October 26th, to Monday, November 2d, 1767.

[2] Franklin boarded for fifteen years with Mrs. Margaret Stevenson, whose daughter Mary married Dr. William Hewson, F. R. S. (Bigelow's Complete Works of Benjamin Franklin (edition of 1887, 1888), ii. 522, *note*.)

closing clause the import of which has hitherto escaped notice, and which confirms the fact of the relationship that is conclusively stated in the letter before us. Franklin there says: "I find by yours to Mr. Todd that you expected soon another little one. God send my daughter a good time, and you a good boy."

In Sabine's Biographical Sketches of Loyalists of the American Revolution (I. 434) there is printed a letter from Foxcroft to Tuthill Hubbart,[1] Postmaster at Boston, in which he says Mrs. Foxcroft and "my little girls are well." This shows that Franklin's prayer — "God send my daughter a good time, and you a good boy" — was not fulfilled as to the sex of the offspring. John Foxcroft, the writer of this epistle, was Deputy Postmaster-General, or, as sometimes called, "Joint Postmaster-General" with Franklin, from 1761 till the opening of the Revolution. The printed materials for his biography are scant; his name does not appear in the Cyclopædia of American Biography, and there is no printed history of his family. The following items, all from the Gentleman's Magazine, are the only data concerning him which I have thus far collected: —

1761. Mr. Foxcroft of Williamsburgh, appointed joint Postmaster General of America with Benjamin Franklin LLD.

1770, August 2. [Married] John Foxcroft, Esq; deputy Postmaster general of North-America — to Miss Osgood, King's-Street, St. James's.

1790, Mar. 5. [Died] At New-York, John Foxcroft, esq. agent for the British packets there. The late Dr. Franklin and he were appointed joint postmasters-general of that province; which office, during the time of the American War, was abolished.

In regard to the lady who was Franklin's daughter and Foxcroft's wife, we have no information beyond what is afforded by this letter and the marriage notice, except that I am told by a correspondent that she was married as Miss Mary Osgood. It is possible that she is referred to in a tract by Hugh Williamson, called "What is sauce for the goose is also sauce for the gander," published at Philadelphia in 1764. In this virulent work, directed against Franklin, there is an epitaph which the writer constructed for his opponent.[2]

[1] Tuthill Hubbart, who succeeded James Franklin, was Postmaster till the Revolution; was Selectman of Boston, 1781–1784; and died, on the site of Sears's Building, 17 January, 1808, aged 88.

[2] "An Epitaph &c To the much esteem'd Memory of B . . . . . F . . . . . Esq,' L. L. D. * * * Possessed of many lucrative Offices Procured to him by

Paul Leicester Ford, who brought this epitaph to notice in his skit, "Who was the Mother of Franklin's Son?" finds in "The Foster Mother of his last Offspring Who did his dirty Work" contributory evidence to the solution of his query. The "two Angelic Females, whom Barbara also served" he does not undertake to identify. We are perhaps not going too far astray in hazarding the conjecture that this duet of "angelic females" was composed of Sally Franklin, afterwards Mrs. Bache, and Mary Osgood, who became Mrs. John Foxcroft.

An interesting feature of the letter under consideration is the form of the frank, which reads, "J. *Free* Foxcroft." It will be remembered that the patriots used to find cheer and encouragement in the franking form used by Franklin, "B. Free Franklin," in which they read an injunction from the great philosopher to "Be free." It would appear, however, from Foxcroft's use of the same form, that it was a device to prevent franking by unauthorized persons. The fact that so little has got into print about a man like Foxcroft, who performed important public service in the pre-Revolutionary days, shows that there is much to be done to set forth clearly our annals.

It may not be amiss to give here a picture of the Franklin *ménage* in 1755, drawn from an apparently impartial source. In the Diary of Daniel Fisher[1] we find the following. After relating the circumstances attending his entering into Franklin's employment as a clerk, Fisher says: —

"Mr. Soumien[2] had often informed me of great uneasiness and dissatisfaction in Mr. Franklin's family in a manner no way pleasing to me and which in truth I was unwilling to credit, but as Mrs. Franklin and I, of late, began to be Friendly and sociable, I discerned too great grounds

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the Interest of Men Whom he infamously treated, And receiving enormous Sums from this Province, For Services He never performed After betraying it to Party and Contention, He lived, as to the Appearance of Wealth In Moderate Circumstances. His principal Estate, seeming to consist In his Hand Maid Barbara A most valuable Slave, The Foster Mother of his last Offspring Who did his dirty Work And in two Angelic Females, whom Barbara also served As Kitchen Wench and Gold Finder. But alas the Loss! Providence for wise tho' secret Ends Lately deprived him of the Mother of Excellency." [a]

[1] Pennsylvania Magazine of History and Biography for 1893, xvii. 256.

[2] Samuel Soumien was a silversmith and lived only a few doors from the Franklins in Philadelphia.

[a] Governor William Franklin.

for Mr. Soumien's Reflections, arising solely from turbulence and jealousy and pride of her disposition. She suspecting Mr. Franklin for having too great an esteem for his son in prejudice of herself and daughter, a young woman of about 12 or 13 years of age, for whom it was visible Mr. Franklin had no less esteem than for his son. Young Mr. Franklin, I have often seen pass to and from his father's apartment upon Business (for he does not eat, drink or sleep in the house) without least compliment between Mr. [*sic:* ? Mrs.] Franklin and him or any sort of notice taken of each other, till one Day as I was sitting with her in the passage when the young Gentleman came by she exclaimed to me (he not hearing): 'Mr. Fisher, there goes the greatest Villain upon Earth.' This greatly confounded and perplexed me, but did not hinder her from pursuing her Invections in the foulest terms I ever heard from a Gentlewoman. What to say or do I could not tell, till luckily a neighbor of her acquaintance coming in I made my escape."

Messrs. Andrew Cunningham Wheelwright, of Cohasset, and Albert Matthews and Charles Armstrong Snow, both of Boston, were elected Resident Members.

ANNUAL MEETING, NOVEMBER, 1896.

THE ANNUAL MEETING was held at the Exchange Club, corner of Milk and Batterymarch Streets, Boston, on Saturday, 21 November, 1896, at half-past five o'clock in the afternoon, the President, BENJAMIN APTHORP GOULD, LL.D., in the chair.

The Records of the last Stated Meeting were read and approved.

Dr. GOULD then addressed the Society as follows: —

Gentlemen of The Colonial Society of Massachusetts:

At this, our fourth Annual Meeting it is once more my privilege to exchange congratulations with you upon the continued and marked progress of our Society. After successfully maintaining its position during an extended period of depression throughout the community, and one which under other circumstances might well have been disheartening, it has held its influence and continued its activity in a marked degree, and justified the expectations of its Founders and well-wishers. It has aided efficiently in carrying out the purposes designated in its Charter, by propagating knowledge of the lives and deeds of our Colonial ancestors; by encouraging individual research into the part taken by our forefathers in the building of our Nation; by promoting intelligent discussion of events in which the people of our Commonwealth have been concerned, in order that justice may be done to participants and false claims silenced; and by inspiring among our members a spirit of fellowship based upon a proper appreciation of our common ancestry. With the return, already manifest, of more favorable conditions, the auguries of an increased usefulness for our Society are becoming brighter still.

The Report of your Council contains a brief summary of the year's work and experience. The sad features, which we can

rarely expect to escape, are, it is true, not wanting, and some have been taken away from us from whose support and assistance we hoped much. In addition to the loss from our number of the three honored and useful members whose removal we were called upon to deplore during the lapse of less than a single month at the beginning of the year, and whose good deeds are soon to be especially commemorated in our records, we mourn for two others whose absence from among us has left a strange void for many classes of our fellow-citizens. One was a man of large affairs and commercial influence, whose ancestry was intimately connected with the earliest history and institutions of the Massachusetts Colony, and whose interest in our work was intense and keen; the other, although comparatively young, was a statesman, beloved and honored by men of all parties, whose personal influence was unsurpassed by that of any public man among us. Few men could be more different than they, — the large financier, who lived a retiring but beneficent life, full of judicious counsel and unostentatious charities, and the brilliant young politician whose example did much to redeem the so frequent, yet perhaps not unnatural, perversion of that term in our land. Both were men of high integrity, who could ill be spared from our fellowship.

But we will turn, at present, from sad reminiscences, and look toward the dawn. Our outlook is full of promise as well as of hope.

The Annual Report of the Council was presented and read by Mr. Edward Wheelwright.

REPORT OF THE COUNCIL.

It is provided by the By-Laws that, at the Annual Meeting, the Council "shall make an Annual Report, which shall include a detailed statement of the doings of the Society during the preceding year." In compliance with that requirement, the following Report is respectfully submitted: —

Since the last Annual Meeting, a report of which is already in type and in the hands of the Members, the usual number of Stated Meetings of the Society has been held, all of them in the Hall of the American Academy of Arts and Sciences, in Boston.

For the hospitality thus kindly accorded to us in our present houseless and homeless condition, the Society is deeply grateful.

The Stated Meetings of the Society were well attended, the Annual Meeting bringing together no less than forty-eight members. There were read before these meetings four important papers of considerable length by four different members, while about twenty shorter communications were made by fifteen members.

The Society has lost five members by death during the year: —

Martin Brimmer,
Edward Wigglesworth,
Daniel Denison Slade,
William Gordon Weld,
William Eustis Russell.

The Council has held during the year six Stated Meetings; and as empowered by Chapter XI., Article 3, of the By-Laws, it has appointed the following Committees: —

On Finance — The Treasurer, Mr. Henry Winchester Cunningham, and Dr. Henry Parker Quincy.

Of Publication — Messrs. Andrew McFarland Davis, Henry Williams, John Noble, Edward Griffin Porter, and George Lyman Kittredge.

On Printing — Messrs. Henry Herbert Edes and Edward Wheelwright.

It has also appointed Mr. Henry Herbert Edes to write the Memoir of the Hon. James Walker Austin, in place of Mr. Abner Cheney Goodell, Jr., previously appointed to that service, but whose engagements precluded his acceptance; the Hon. George Silsbee Hale, to write a Memoir of the Hon. Martin Brimmer; Dr. Henry Parker Quincy, one of Dr. Wigglesworth; Edward Wheelwright, one of Dr. Slade; Dr. Joseph Henry Allen, one of Mr. William Gordon Weld; and Dr. Charles Carroll Everett, one of Governor Russell.

The following named gentlemen have accepted membership in the Society during the year: —

Messrs. Lindsay Swift,
Charles Frank Mason,
Appleton Prentiss Clark Griffin,
Richard Middlecott Saltonstall,
Albert Matthews,
Andrew Cunningham Wheelwright,
Charles Armstrong Snow.

An event of capital importance in the history of the year has been the publication of the first volume of our Transactions. The admirable manner in which the Committee of Publication have accomplished their task deserves the warmest thanks of the Society.

The two great needs of the Society, ably dwelt upon in previous Reports, are still "a Publication Fund and a place of abode." The nucleus of such a Fund has, indeed, been already laid during the time of financial depression from which the country is now emerging, and it is confidently hoped that with the return of prosperity our members will make an earnest effort to place the Society on a firm financial basis. By the Report of the Treasurer it will appear that the Publication Fund now amounts to $424.96. The income of so small a sum as this is, of course, entirely inadequate to defray the cost of our Publications, and until largely increased the annual deficiency must be supplied, as in the past, by voluntary contributions from individual members.

There also exists a General Fund, formed from the sums paid into the Treasury from time to time by members for Admission Fees and in commutation of their Annual Assessments. This Fund now amounts to $1,774.98, the income only of which is available for the current expenses of the Society. It would be long before the income of this Fund, at its present rate of increase, would suffice for even the *hire* of the narrowest quarters as "a place of abode." How to increase the capital of both these Funds is a question worthy of the most careful consideration of the Society; and it is hoped that some action looking to this end may be taken at an early day.

The Treasurer presented his Annual Report, as follows:

REPORT OF THE TREASURER.

The first Article of Chapter VIII. of the By-Laws requires that the Treasurer shall submit, at the Annual Meeting of the Society, a statement of all his official doings for the preceding year, of the amount and condition of all the property of the Society intrusted to him, and of the character of the investments. In compliance therewith, the following Report is respectfully submitted: —

The pressing need of the Society for a substantial enlargement of its permanent Funds has been already referred to in the Report of the Council, and it remains for your Treasurer merely to emphasize that need by calling the Society's attention to the fact that the increase during the past year has amounted to only $647.99. But, although the Funds amount to $2,200 only, they are safely invested in gold mortgages on improved city property with very large equities, and yield 5⅜% net. These investments are as follows: —

$500 in a 6% mortgage, payable principal and interest in gold coin, on improved Real Estate in Cambridge;

1000 in a 5% Parti-Mortgage Receipt (No. 149) of the Conveyancers Title Insurance Company, due 16 April, 1899, and payable principal and interest in gold coin, on improved Real Estate in Boston;

650 in a 5% mortgage, payable principal and interest in gold coin, on improved Real Estate in Boston.

49.94 deposited in the Charlestown Five Cents Savings Bank.

The following is an abstract of the Accounts for the past twelve months, and a Trial Balance of the books on 21 November, 1896:

CASH ACCOUNT.

RECEIPTS.

Balance 15 November, 1895		$36.50
Admission Fees	$70.00	
Annual Assessments	850.00	
Commutations of the Annual Assessment from Five Members	500.00	
Interest	83.41	
Sales of the Society's Publications	35.00	
Henry H. Edes, temporary loan	100.00	
Withdrawn from Charlestown Five Cents Savings Bank	555.42	
Contributions from three members	100.00	2,293.83
		$2,330.33

EXPENDITURES AND INVESTMENT.

University Press, Printing	$558.08	
Clerical Service	29.50	
C. S. Hathaway, mounting Photographs and Autographs of Members for the Society's Album	6.25	
Miscellaneous incidentals	419.95	
Henry H. Edes, temporary loan, paid	100.00	$1,113.78

Amount carried forward		$1,113.78
Deposited in Charlestown Five Cents Savings Bank: Commutations, Admission Fees, and Interest belonging to the permanent Funds	$553.41	
Mortgage on improved real estate No. 5 Louisiana Place, East Boston, recently sold by auction for $1,305, dated 21 September, 1896, three years at 5%, principal and interest payable in gold coin	650.00	
Interest in adjustment	5.42	1,208.83
Balance on deposit in Third National Bank of Boston, 20 November, 1896		7.72
		$2,330.33

TRIAL BALANCE.

DEBITS.

Cash		$7.72
Mortgages	$2,150.00	
Charlestown Five Cents Savings Bank	49.94	2,199.94
		$2,207.66

CREDITS.

Income		$7.72
Publication Fund	$424.96	
General Fund	1,774.98	2,199.94
		$2,207.66

HENRY H. EDES,
Treasurer.

BOSTON, 21 November, 1896.

Mr. DAVID RICE WHITNEY read the following Report of the Auditing Committee: —

REPORT OF THE AUDITING COMMITTEE.

The undersigned, a Committee appointed to examine the accounts of the Treasurer of The Colonial Society of Massachusetts for the year ending 21 November, 1896, have attended to that duty, and report that they find them correctly kept and properly vouched; and that proper evidence of the investments and of the balance of cash on hand has been shown to us.

D. R. WHITNEY,
SAMUEL JOHNSON,
Committee.

BOSTON, 21 November, 1896.

The several Reports were accepted, and referred to the Committee of Publication.

On motion of Mr. WHITNEY, it was —

Voted, That the Chair appoint a Committee of five members with full powers to consider the subject of increasing the Permanent Funds of the Society, whereby provision may be made for an annual income sufficient to defray the cost of the Society's Publications, and to take such further action as they may deem expedient.

Mr. JAMES BRADLEY THAYER, Chairman of the Nominating Committee, presented the following list of candidates for officers for the ensuing year : —

PRESIDENT.

BENJAMIN APTHORP GOULD.

VICE-PRESIDENTS.

JOHN LOWELL.
WILLIAM WATSON GOODWIN.

RECORDING SECRETARY.

HENRY WINCHESTER CUNNINGHAM.

CORRESPONDING SECRETARY.

ANDREW McFARLAND DAVIS.

TREASURER.

HENRY HERBERT EDES.

REGISTRAR.

HENRY ERNEST WOODS.

MEMBER OF THE COUNCIL FOR THREE YEARS.

CHARLES CARROLL EVERETT.

A ballot was then taken, and the above-named gentlemen were unanimously elected.

After the dissolution of the meeting, dinner was served. Dr. Gould took the chair, and the Divine blessing was invoked by Bishop Lawrence. Mr. James B. Thayer addressed the Society, and thenceforward, at the request of Dr. Gould, relieved him in the performance of the duties of Presiding Officer. Speeches were also made by Mr. James Mills Peirce, the Hon. Charles W. Clifford, Mr. Abner C. Goodell, Jr., Mr. George Lyman Kittredge, Mr. S. Lothrop Thorndike, and the Hon. Darwin E. Ware.

SPECIAL MEETING OF THE COUNCIL,

28 November, 1896.

A Special Meeting of the Council was held on Saturday, 28 November, 1896, at half-past ten o'clock in the forenoon to take action upon the death of the late President of the Society, Benjamin Apthorp Gould, LL.D., who died on Thursday evening.

Present, Messrs. Henry Winchester Cunningham, Andrew McFarland Davis, Henry Herbert Edes, Charles Carroll Everett, John Lowell, and Edward Wheelwright.

The First Vice-President, the Hon. John Lowell, occupied the chair.

The following is an extract from the Records of the Meeting: —

We, the Council of The Colonial Society of Massachusetts, have been convened in consequence of the mournful intelligence of the sudden death of our honored President. Our last memory of him in connection with the Society brings him before us, full of life and happiness, joining in the laughter brought forth by the wit of the speakers at our Annual Dinner, and manifesting a zeal and activity on that occasion which gave promise of the continuance for many years of that active interest in our affairs which has always been an inspiration to those who have been associated with him in this work. The shock which this great calamity has occasioned to the community will nowhere be felt with more intensity than within our own ranks. To the world he was the distinguished leader in the particular branch of Science in which he had made his fame. His career was rounded out with recognition at home and abroad which would have satisfied the most insatiable appetite for honors. His was the most conspicuous figure among the men of Science in this country.

In the formation of this Society, of which he has been the President from the day of its foundation, his influence was conspicuous, and the strength of his honorable name was a magnet which attracted to our membership. For these reasons the loss which we feel has a personal character. It is not only our President but our friend that we mourn.

In the midst of the enormous amount of professional work with which he was ever oppressed, he found time to prepare and publish an elaborate

genealogy of the Gould family. The preparation of this work led to a deep interest on his part in the labors of men who were engaged in the study of the early history of this country, and was probably the underlying cause of his connection with the Genealogical Society, the American Antiquarian Society, and with this Society, in the creation of which he had so much to do. This interest was profound and constant, and his erudition upon the subject of the early settlers of this community was a source of surprise to those who knew him only as a scientific man.

He was a delightful companion, being endowed with conversational gifts of rare quality. He was ever ready with fitting anecdote, apt quotation, or witty rejoinder. His wide experience in different countries furnished him with a fund of information, from which he would upon occasion draw, for the delight and benefit of his friends.

He was fond of poetry, and especially of the poems of Holmes. Many of these he knew by heart, and when in the mood would often cap a sentiment with a quotation from them. He was strong in his friendships and strong in his dislikes. It is seldom that men of his years maintain so many personal alliances contracted in their boyhood as did he. The rupture of the ties which bound him to these companions of his life, towards whom he ever maintained a tender, generous, and loyal friendship, will be keenly felt. His loss reaches us as individuals, and is a calamity to this Society. He watched our progress with jealous interest. He took pride in our successes, and was impatient that our affairs did not more rapidly assume a shape of assured permanency. In losing him we may well ask ourselves where shall we turn?

Resolved: That the foregoing be spread upon the Minutes of the Council; that the Council tender their heartfelt sympathy to the family of their late President, and that the Council will, in a body, attend the funeral of this illustrious man of science, this faithful, zealous President, this loyal, affectionate friend, this charming companion, this many-sided man.

Voted: That the Stated Meeting of the Society in December be a Memorial Meeting for our late President, and that the Chair appoint a Committee of five to prepare suitable Resolutions and to arrange for the meeting.[1]

[1] The names of the gentlemen who constituted this Committee are given in connection with the proceedings of the December Meeting of the Society.

DECEMBER MEETING, 1896.

A STATED MEETING of the Society was held in the Hall of the American Academy of Arts and Sciences, on Wednesday, 16 December, 1896, at three o'clock in the afternoon.

It had been determined by the Council that the exercises at this Meeting should be in the nature of a Memorial in honor of the late President of the Society, Dr. BENJAMIN APTHORP GOULD, and a Committee [1] had been appointed by the Council to prepare suitable Resolutions for adoption on this occasion. A furious snow-storm raged at the time of the assembling of the Society, and prevented the attendance of Vice-President the Hon. JOHN LOWELL, who had signified his intention to be present and to say a few words in memory of Dr. Gould. Vice-President WILLIAM WATSON GOODWIN was absent in Europe.

Mr. SAMUEL WELLS was called to the chair.

After the Record of the Annual Meeting had been read, Mr. THOMAS MINNS and CHARLES GODDARD WELD, M.D., were elected Resident Members.

The Corresponding Secretary announced the gift to the Society by Mr. ALBERT MATTHEWS of a fac-simile reproduction of Bradford's History of Plymouth Plantation, for which the thanks of the Society were returned.

Mr. WELLS then called upon the Committee on Resolutions to submit their Report.

[1] The Committee was composed of Messrs. George S. Hale, George M. Lane, Edward Wheelwright, Seth C. Chandler, and S. Lothrop Thorndike.

The Hon. George S. Hale, Chairman of the Committee, then read the Resolutions, prefacing them with the following remark: —

The Committee have the honor of submitting to the meeting what I may designate (because I had no share in their composition) a very excellent series of Resolutions, which I will now read: —

The Members of The Colonial Society of Massachusetts desire to place upon its records some expression of their sorrow on the occasion of the death of its President, Dr. Benjamin Apthorp Gould, on Thursday, the twenty-sixth day of November last.

This grievous loss is the severest blow that could have come upon our Society. In joining those who first organized the Society and in accepting the office of its first President, Dr. Gould brought to it the support and distinction of a name known throughout the world as a leader in his chosen science. To this he added a hearty interest in the objects of this Society, and a faithful attention to the duties of the office which he had accepted. From his earliest youth, Dr. Gould was a remarkable and interesting person. Happily born and bred, he counted always among his friends and intimates some of the ablest men of his time, and he was sought after, as a member, by learned societies in many countries. Such distinctions were the more honorable to him as coming to a man of an unusually out-spoken and even aggressive independence of character and thought, never afraid to speak his mind and never to be attacked with impunity.

Dr. Gould loved the old habits and traditions of life and thought and religious faith and practice in which he had been brought up, and was always ready to bear testimony, on these subjects, to the faith that was in him. He had a wide range of acquaintances, and liked to keep up his association with many varieties of men. For the closer relations of friendship he had a great capacity, and it increased as life went on. He had suffered grievously in his early professional life from calumny and injustice, and afterward from the saddest bereavements in his home. But he kept steadily on at his great tasks until the latest hours of his life; and now, what can be said of few men may be said of him, — that when death came to him all the work which he had laid out to do had been in sub-

stance accomplished. He had, indeed, expressed a wish to live until his book upon the Stars of the Southern Hemisphere, for which he had collected material in South America, could be finished. This was not granted him, but he had fully prepared nearly all the book, and had left it in such a shape as to be readily completed by his faithful and devoted assistants. In recent years, his house was growing lonely, as his children grew up, and were married or called away to their own work in life; but his friends always found there the same hearty and delightful welcome. The experiences of life had not embittered him; they seemed, rather, to have softened him, and to have added to his old, engaging qualities of wit, hospitality of thought, and hearty sympathy, a still wider range of appreciation and kindly and charitable judgment. His name will be cherished by this Society with gratitude and affection.

Mr. James Bradley Thayer then spoke as follows: —

Others will speak of Dr. Gould's great achievements in science, of his remarkable intellectual powers, and his distinguished place among the men of his time.

I have only a very few words to say, mainly of Dr. Gould as a friend. Even so, I have little right to speak, as compared with those intimate and life-long companions of his who are here with us this afternoon. But I had grown to be very much attached to him, and am thankful to say a word or two.

Long before I knew him, I remember seeing him on the streets of Cambridge, while I was in college. At that time he was known to us undergraduates as one of that brilliant company of men, including the young Professors Child and Lane, who led a cheerful and hilarious life together at what was called "Clover Den," in Follen Street. I have a picture in my mind of his striking figure, vigorous and alert, as he walked along the streets gayly conversing with his friends. But it was not until his return from South America that I personally knew him. I had then the pleasure of sharing in the tribute that was paid to him, in May, 1885, when he was welcomed back to Boston at a dinner by his friends. He set up his house at Cambridge, and since then I have known him as a neighbor, and had come to love him as a friend.

The Resolutions speak of his great capacity for friendship. That seems to me particularly just and true. There was something very unusual about the cordiality of his greeting, and the warmth and cheer of the friendly glow that he always brought with him. He was full of sympathy and considerate attention, and knew well all those little kindly arts that minister to the happiness of a friend. You valued the more his kindness when you perceived how steadfast and stanch his regard was for his classmates and all his older intimates. And then his wit was so brilliant, and the play of his faculties so keen and quick! And under it all there was a serious and thoughtful mind, interested in all sorts of subjects, so that good and worthy conversation never failed. Of his lighter talk I remember a little instance that happened some years ago, a trivial little matter, to be sure, but it was characteristic of him, and you will pardon my telling it. I had come upon a Spanish sentence somewhere of which I wanted to get the exact meaning, and I went over to see Dr. Gould. I said to him that I had guessed that his long residence in South America would have made Spanish very familiar to him. He looked at the sentence, and told me at once what I wished to know. "Oh yes," he added, "for fifteen years I talked in Spanish; and all I wrote was in Spanish; — Spanish," he gravely added, after a pause, "and Arabic." I was impressed by that. After a moment I said, "I hadn't known that you were so familiar with Arabic." "Yes, indeed," he said; "why, I published several quarto volumes," pointing to a bookshelf, "almost wholly in Arabic. Look at them!" I went to the books, opened one of them, and saw page after page of tabulated Arabic *numerals!*

At our Annual Dinner, on the Saturday before his death, he asked me to drive in with him from Cambridge. He was in excellent spirits. As we were driving out, and had nearly reached the new Harvard Bridge, he pointed up to a lighted window on the left. "There's Mary," he said gayly, referring to his daughter, Mrs. Thorndike; "I'm coming in to dine with her on Thanksgiving." It was that affectionate errand on which he was just starting, on the following Thursday, when the end came. A happy end it was for him, — painless, we may believe, and short, and leaving his fame at its highest. But to many of us, his friends, and to our Society, it brings one of the severest of losses.

At the conclusion of Professor Thayer's remarks, Mr. Philip H. Sears addressed the Society in the following language: —

Mr. Chairman, — I did not expect to speak on this occasion until yesterday afternoon, and therefore I have not written anything, and have only hastily run over my early recollections of my classmate Gould, and I shall have to present them here very much as they have come up in my own mind, without any attempt at proper arrangement.

I shall not speak of his scientific achievements, because I think that office more properly belongs to some others who are here, but shall rather speak of him as a classmate, and of what I have known of him ever since our college days in consequence of this relation to him.

I never saw Dr. Gould until I met him in 1840 in the recitation-rooms at Cambridge. The freshman class of that day was, in Latin and Greek, divided into three divisions, not alphabetically, but according to the rank in which each one had entered college through the examination for admission. I found myself in the same division with Dr. Gould and with our classmate, Mr. Hale, and in consequence I became better acquainted with Gould and with others in that division than with the majority of the class.

Very soon after the commencement of our course, he invited me to dine with him on Saturday at his father's house in Winthrop Place in Boston. I accepted the invitation, and afterward I dined with him on Saturdays many times in the freshman and sophomore years. At that time we always walked from Cambridge to Boston and back from Boston to Cambridge, and had much conversation on the way. I recollect that on our way, in one of the earliest of these walks, to my great astonishment he recited whole pages from Homer and from Virgil, and whole odes of Horace and scenes from Terence. It showed a most remarkable memory, which was, I think, one of his great intellectual traits. He retained through life things that he had learned before he was admitted to college, and on many occasions, especially those of a festive character, he would make exceedingly apt quotations from classic authors. This retentive memory served him, too, in his scientific papers afterward.

I wish also to remark in this connection that he had then (and I think he retained it through life) a great predilection for the classics and a great admiration and love for the classic authors. I do not know that he read them much afterward, but he was ready to quote from them at all times in later life.

Another thing that occurred also in those early walks, showing a trait of his character, was the expression of a strong ambition to distinguish himself. I recollect that on one occasion he said if he could gain the reputation and distinction of Edward Everett, he should be ready to sacrifice his life instantly. That, at the time, was a personal ambition, but later it gave place to and became merged in a desire to do something worthy of a man in life, to accomplish something that would characterize properly the dignity of a man, and especially to advance his favorite science of astronomy. Afterward the love of this science took the place of all personal ambition, and later his love of astronomy became merged in a broader feeling even than that. This feeling was, through the enlargement of astronomical knowledge, to advance the intellectual power and dignity and higher welfare of man.

In those days I think he had but little taste, and I should not say that he had any peculiar talent, for mathematics, — I mean the mathematical talent properly so called, because I remember that he now and then "deaded," as so many others did, and Professor Peirce would write on his book "Take again." In the earlier part of his college course the classics were his favorite study. I never knew exactly what it was that caused the change in his special studies. His earliest part, which was in the junior year, was a Greek version, Pericles the Athenian being the subject; and I think it was after the middle of the junior year that he first began to devote himself almost completely to mathematics and to science. Perhaps this was done by the advice of Professor Peirce — I think that is very probable, because Professor Peirce advised others of us to make mathematics our special sphere in life. There were in the class seven who took the course of pure mathematics throughout the whole four years of college life. General Wild was one, and Joseph Peabody was another; and another was Charles A. Whitcomb; I was one, and Dr. Gould was one. Professor Peirce, I know, advised me to make mathematics my business in life, but I

declined; I presume he advised Gould in the same way. But what, I think, was largely the cause of his change of studies was his admiration for the meetings and proceedings of the British Association for the Advancement of Science. In his junior year he read the Proceedings of that Society, and was filled with admiration for what the Society did and for the men who composed it, and often spoke of them. His part at the beginning of the senior year was on that subject, — the British Association for the Advancement of Science. Its preparation awoke in him a strong enthusiasm that way, and after the beginning of the senior year he gave himself almost completely to the study of mathematics and science.

He developed at that time a capacity for persistent and strenuous application to these studies which was the secret of his success in life. I have visited his room and found him holding his aching head in his hands, yet absorbed in study and working with all his might. It was during the senior year that he especially developed this power of long-continued application. It was the same trait to which, you will remember, Newton ascribed his discoveries, — the power of patient thought. This peculiarity Dr. Gould had, and it was this that enabled him to achieve what he did later in life.

I often visited his room, as he often came to mine; and I want to mention by the way a characteristic thing that came from another of the class, who was at that time a room-mate of Dr. Gould. That was Francis Parkman. I think on the first visit that I made to his room I talked over with Parkman the books that we had read, and among other things I told him that I had not then read all of Scott's novels, and he said, "Oh, how I envy you the pleasure you are destined to have!" He had read them all, and said there was no end to the enjoyment to be had in reading Scott's novels.

Another trait in Dr. Gould's character, which has been referred to by Professor Thayer, and which was one of the most remarkable things about him, was the warmth and constancy of his friendships. This is a thing in which the Class of '44 is perhaps exceptional. We have all been warm, steadfast friends, among whom Dr. Gould was one of the most devoted. In recent years I had been accustomed to meet him during the winter season twice

a month at the meetings of the Thursday Evening Club, and we seldom met that he did not take hold of my hand with both his hands and greet me with the warmest expressions. He was accustomed to do this same thing with other members of the Class. It was the very perfection of friendship that he always showed to those who had been his friends.

Professor Thayer has alluded to the mention in the Resolutions of how far he had finished the work he had undertaken to do. I think his life in this respect is remarkable. About three months before Mr. Parkman died, I visited him in his chamber, where he was lying on the sofa. He pointed to a row of books in his bookcase, and said that there was the work of his life; that he had published the last book, had accomplished all that he had set himself to do, and that he felt very happy over it; and I congratulated him on such a completed life-work. I think the life of Dr. Gould was very much the same. He concentrated himself finally upon the work of determining the positions of the Stars in the Southern Hemisphere. After the discovery of the new method of photographing the stars, it was possible to be so much more accurate and to go so much farther that he thought this opened to him a great field; and it raised in him, I think, also a great aspiration for a work that should be of permanent value and use to mankind, and he devoted his life to it from that time. He brought home the results of his observations, and had been working since on the mathematical part of the work and the computation of the positions of the stars as derived from these observations, and he thought he had substantially completed it. He said in his autobiography that one year more would enable him to finish the work. That was two years ago. I suppose that he had substantially done it. With this, he felt that his active life was a completed life. Very few men can say that; and it is a remarkable thing when a man has completed the work that was his ideal in early days.

There are other things I might refer to, but there are others here who will speak of them. I will only say, further, that when in college we were all very much affected by the preaching of Dr. Walker; and his preaching aroused in Dr. Gould strong religious sentiments which kept their hold upon his mind and heart throughout life.

Dr. SETH C. CHANDLER then said: —

Mr. Chairman and Fellow-members of The Colonial Society:

I am well aware that, at any ordinary time or on any other occasion than that which has called us together to-day in common mourning, my voice should be silent. But in this commemorative meeting I confess that I should feel grieved to miss the opportunity of adding my tribute, and ashamed if I allowed diffidence to dissuade me from uttering the words which may fitly come from the pupil, assistant, associate, and friend of thirty-four years. I have so recently had occasion, in other places, to put on record Dr. Gould's achievements, as well as an appreciative estimate of his position and influence in astronomical science, that I need not take your time in repetition. But I feel strongly impelled to say something which could not have been appropriately expressed there, although it may be fittingly uttered here. It is this. Do not make the mistake of supposing that this estimate of the magnitude and character of Dr. Gould's work and influence was controlled by personal affection or unduly magnified by individual admiration. It was written with the full consciousness that, while it would perhaps be more immediately read by friends who knew him in other relations of life, and only by reputation as a man of science, it would also be scrutinized from a critical standpoint by his astronomical colleagues, and that any overstrained eulogy would injure rather than exalt his reputation among those competent to judge. With a due sense of responsibility for a calm judgment of the place which Gould will take in astronomical history, I am willing to say that it is scarcely possible to place this too high. I happen to know that, in an important astronomical treatise now going through the press, the dedication of it to Gould describes him as "the Argelander of America." How high the pinnacle is to which he is thus assigned, astronomers will appreciate; but I feel safe in asserting that, in the coming century, the parallel, far from being regarded as fulsome, is more likely to be reversed, and that Argelander may be fitly characterized as "the Gould of Germany."

Allow me a few words more. In looking over Dr. Gould's correspondence I have been startled at coming upon something probably unknown to any man now living, and which there is nothing improper in divulging here. I trust you will appreciate its signifi-

cance, not merely as an episode in his career, but as an epoch in American astronomy.

Coming home, in 1848, from his thorough scientific training abroad, with high aspirations of usefulness and consciousness of intellectual strength, and after devoting efforts for two or three years to hold aloft the standard of a pure astronomical science among countrymen too little appreciative to give practical encouragement to them, he finally became disheartened. At this juncture his old friend and teacher, the great master mind of modern astronomy, Gauss, invited him back to Germany to take the chair of Professor of Astronomy and Director of the Observatory at Göttingen. Such a compliment surely had never come to an American; but it failed to turn him from his purpose, although Peirce and Agassiz strongly advised him to accept the offer, urging the argument that he had done all that could be expected of him as a citizen. In the stalwartness of his patriotism he refused to accede, and staunchly determined to struggle awhile longer. In a few months the invitation was warmly renewed, at a time when he was overcome by physical weakness, and he reversed his decision. By a fortunate accident he again put aside the temptation, which might well have dazzled a young man of twenty-seven. But for this, America would have lost him and his splendid record for our higher civilization. His subsequent brilliant career would have redounded to the glory of Germany and to the shame of our native land. This calamity was averted, and his honorable record saved as a precious heritage to this community, by his noble love of country.

Can any words be too tender, or any phrases too appreciative, of the friend we have lost, of the example he has set us?

The Hon. DARWIN E. WARE then paid the following tribute to the memory of our late President: —

The distinguished man whose loss we deplore was an astronomer of a world-wide fame due to extraordinary achievements in astronomical science. He was also the President — almost, I might say, the Founder — of this Society, — a Society based upon devotion to the memory of our Colonial ancestry, blended with the national sentiment of patriotism for the country in whose wonderful

history so much that is best is derived from the Pilgrim and Puritan fathers. How profoundly he was imbued with the sentiments this Society would inculcate has been observed by us all. He had a genial nature, sympathetic to festive occasions. But his opening discourses at our Annual Dinners set down for the anniversary of the signing in the cabin of the "Mayflower" of the celebrated Compact of government, were delivered in solemn tones and with a gravity of reverence that was almost austere. This enthusiasm for man in history, for the moral side of the world, is not usually found, at least in modern times, combined with devotion to astronomical pursuits. With the ancients it was not so. Thales, the founder of Greek astronomy, was one of the seven wise men of Greece. He was wise with an all-round wisdom. He was philosopher, statesman, and astronomer. Pythagoras founded a school of moral reform. The philosopher Plato was not without his influence on the advancement of astronomical knowledge. Aristotle, who wrote treatises on ethics and politics, wrote also a treatise on astronomy. But the vocation of the modern astronomer is so absorbing, the learning to be amassed so extensive, the methods of investigation so manifold, difficult, and intricate, as well-nigh to exhaust the whole passion of life.

Kant, in his "Theory of Ethics or Practical Philosophy," says:

> "Two things fill the mind with ever new and increasing admiration and awe, the oftener and the more steadily we reflect on them: the starry heavens above and the moral law within."

It is equally true that no calling appeals so strongly to the imaginations of men as that of the astronomer. This comes of his ability to observe facts beyond the range of common observation, and to combine with them reasonings and calculations to which comparatively few minds are equal. One science in particular, the very monarch of sciences, he must master and make his slave, — the mathematics, — a science of such universal range that no phenomena of the material world are beyond the rule of its majestic formulas. Invested with the power to weigh the planets, to calculate eclipses, to predict the advent of comets, the hours and minutes of tides, to explain the motions and laws of the heavenly bodies, the astronomer seems to the common mind more like an intellectual archangel than a man.

That the sublimities of the stellar universe, its immensities of space, the awful poise and balance of wildernesses of worlds upon worlds and systems upon systems do not fail to impress profoundly not only the philosopher but every reflecting mind, is unquestionably true. It does not, however, usually happen that the votary of the science of the starry heavens is equally impressed with the sublimity of the moral law as manifested in human consciousness and human history. It would seem almost impossible that the incessant contemplation of these infinities of space, these eternities of time, these starlit illimitable ubiquities, should not give a warping bias to an astronomer not endowed with an indomitable humanity. How remote must be his thoughts from human affairs; how vast and cold the solitude in which he lives; how complete his isolation! From the range of the telescope he points night after night and year after year, there comes not a ray or pulsation that reaches the heart. The peril seems almost inevitable that, by contrast, human affairs shall appear altogether petty, and human life an insignificant thing.

Fortunately for most of us, we do our work in the garish light of the matter of fact day, under a monotonous concave of sky, with attention undistracted from the common cares of daily life, except for the passing splendor now and then of a sunrise or a sunset, and at times the transient grandeur of lightning, of thunder, and of storm. The roofs of our houses when we are indoors, the obstruction of building walls and chimney-pots when we are in the streets, and the general appropriation of the night to sleep save us from any danger of too much observation of the stars.

The poet has made a lover at odds with life address to the stars this language of desolation, —

> "A sad astrology, the boundless plan
> That makes you tyrants in your iron skies
> Innumerable, pitiless, passionless eyes
> Yet with power to burn and brand
> His nothingness into man."

But to a rare nature like Dr. Gould's the solitudes, the isolations, the inexorable laws familiar to the astronomer's thought by the very reactions they induced, might only deepen and

quicken the courses of human feeling; might stimulate that hunger of the heart that only human relations and human affections could satisfy; might stir into action the deeper instincts of the mind, the sense of personality and of its moral law, against an oppressive domination; might rouse the soul within, towering in the ecstasy of its supremacy above the world of matter, to wreak upon the very stars the defiance, — "I am greater than ye all."

And here let me say, that I know of no man of science who has seemed to me more exempt from any bias engendered by scientific pursuits. Dr. Gould kept his observatory, his portfolios, and his mathematics in the world to which they belonged. The thoroughness of his culture is shown in the fact that they were not allowed to alienate him from the study of history, the enjoyment of literature, and an active interest in everything affecting the social and national welfare. He was full of human interests. He could repeat with entire truth the words that called out the applause of the Roman theatre, *Homo sum; humani nihil a me alienum puto.* He touched life at many points, and found companionship everywhere.

In affairs of business and in undertakings involving scientific aims he stood for honor and integrity and the highest practicable ideal, inexorable as the iron plan of the celestial mechanics.

I will not recount the qualities that attracted the regard and won the affection of his fellow-men; I will but read the Dedication he gave to his Zone Catalogue of Southern Stars: —

THIS CATALOGUE OF SOUTHERN STARS,
THE FRUIT OF NEARLY THIRTEEN YEARS OF ASSIDUOUS TOIL,
IS DEDICATED TO THE BELOVED AND HONORED MEMORY
OF
MARY APTHORP QUINCY GOULD,
TO WHOSE APPROVAL AND UNSELFISH ENCOURAGEMENT
THE ORIGINAL UNDERTAKING WAS DUE,
BY WHOSE SYMPATHY, SELF-SACRIFICE, AND PRACTICAL ASSISTANCE
ITS EXECUTION WAS MADE POSSIBLE,
WHO BRAVELY ENDURED PRIVATION, EXILE, AND AFFLICTIVE BEREAVEMENT
THAT IT MIGHT BE WORTHILY FINISHED,
BUT WHO HAS NOT SEEN ITS COMPLETION.

The chivalrous devotion, the tenderness of affection, the sense of the deep, the high, and the holy things of life that breathe through these lines, express the man as he was to those who knew him.

Mr. Chairman, thinking of him now, I do not think of his "gray spirit yearning with desire to follow knowledge," and scaling the gleaming battlements of the universe for a nearer view of what he beheld from afar on earth; but rather I think of him as standing on the shining orb first reached by Dante in his ascent into Paradise, and hearing another Beatrice, "from whom no care of his could be concealed, towards him turning, blithe as beautiful," and saying unto him, "Fix gratefully thy mind on God, who unto the first star has brought us."

Mr. S. Lothrop Thorndike followed with some feeling remarks concerning his old friend, between whom and himself the relations had of late become so close. He said: —

Mr. Chairman, — So much has been said that is true and appropriate, that there is little to add, — certainly nothing to controvert. The various events of our President's distinguished career have been sufficiently mentioned. The points of his beautiful and interesting character have been described, both in the Resolutions and in the remarks already made, in words which must seem to all who had the great pleasure of his friendship simply just and appreciative.

I knew Dr. Gould before he went to South America, just as Mr. Thayer has said that he knew him at that period, merely as a younger man knows an older man of the same college. The date of graduation in those early times makes a great difference. We look upon the man who graduated eight or ten years before us with a sort of filial respect, and upon the man who graduated ten years afterward with a sort of paternal interest. These relations of age last more or less through life, although, as time rolls on, the distances are amazingly shortened.

Knowing Gould in those early days simply as a younger man an older, I still knew him well enough to feel the charm of his social quality, the brightness of his conversation, and the quickness of his wit. Then, too, for our acquaintance, such as it was, must have begun soon after his return from his European studies, there

was added in my mind to his social attraction an admiring respect for the reputation which he had already won as a rising light of American science.

When he came home from South America, our acquaintance became more intimate. Our ages had grown nearer each other. We were neighbors and friends in Cambridge. We often met in that great social club which is called Freemasonry. Still later in life, within the last few months, we became more closely bound together by certain domestic ties.

I was glad to hear and to agree with what was said by Mr. Sears of Gould's versatility of mind. This was, perhaps, the most remarkable thing about him. He is known to his brethren in science as the great astronomer, the great master of applied mathematics. In this capacity he is renowned throughout two continents. It is in this capacity that his name is mentioned in scientific journals, in encyclopædias, in the records of learned societies. But we, his neighbors or his associates in matters quite outside of science, knew him so differently. To us, apart from the advantage and delight of his friendship, what was most striking was his general scholarship, and especially his love for what used to be called the *humanities*. He had been edited, like the Virgil and Horace that we used to study, *cura B. A. Gould;* for his father, whose name he bore, was the learned teacher whose books instructed, or perhaps harassed, our boyhood. There is extant an early letter of the father, praising the Latin of a letter of the son, and apologizing for replying in English, because he says he is in haste, and in that condition can write more easily *in lingua vernacula*. He had, besides, lived for many years with the lovely person whom he called Aunt Hannah, but whom we always think of as the poetess of our juvenile days. Whether, as reported, he ever translated an ode of Horace at the age of five, it is not worth while to inquire; but it is certain that his first part in college was a Greek part, that he left college to become the principal of a Latin school, and when he came back from Europe he taught the modern languages in Cambridge. His acquaintance with modern tongues was of an order quite unusual in America. Of course he knew German as well as English, for he was a Doctor of Philosophy at Göttingen. He knew Spanish equally well, for he lived for many years in a Spanish country. He knew French well enough to make an

address in that language before the French Academy. He also had a working and speaking acquaintance with Italian, and a smattering of two or three other languages. His Latin, as Mr. Sears has remarked, he never lost. One could not quote a Latin verse to him without his instantly capping it with another; and he made just as bad puns in Latin as in English.

But it was not merely in science or in the languages that he was remarkable. He had the most extraordinary memory. He had read and remembered all sorts of things, some of them curious, out-of-the-way matters, and he had this vast stock of information always on tap. One could touch on almost no subject without finding that it was something about which he had thought and could talk.

A noteworthy trait in his character was his fondness for old matters. He liked things as they had been a great deal better than as they were going to be. This statement must not apply to his science. In that he was always progressive. But in regard to the ordinary affairs of every-day life it is eminently true. He enjoyed much more a meeting of the Society of the Cincinnati or of the Bunker Hill Monument Association, or perhaps even of The Colonial Society of Massachusetts, than he would have enjoyed a dinner of the Reform Club, had he ever gone to one, which I am sure he never did. This fondness for old things he carried perhaps to an extreme. It was that, no doubt, in part which attracted him to Freemasonry. I do not mean to say that this was its only attraction. His first impulse to join it, just before he went to South America, was perhaps the same that in its early days prompted so many merchants and sailors who had business in foreign countries, and desired there some closer tie of companionship and friendship than their business could give them. Then, too, at all times the lodge was a restful place to him. The assertiveness, strong but never bitter, to which he was always prone on questions of religious, political, or social dogma found no place there. He was not moved to bear witness upon any of these topics, and this very circumstance was a relief and a repose. Still, as I have just said, its antiquity was a delight to him. He liked to feel when he went into the lodge room that he was upon the same ground that the Warrens and the Quincys and John Hancock and John Lowell and Paul Revere had trod in the last century, and that nothing there had changed.

May I add a single word to the remark in the Resolutions of his being of an aggressive character and never subject to attack with impunity? That is very true. Quite by the side of his remarkable capacity for friendship was his capacity for controversy. He was born with this, and he had been trained in it by some bitter experiences. If an adverse opinion approached him in hostile attitude, he was in his earlier days always ready, not with the mild answer, but with the return blow; but this combativeness became much softened in later life. Then, if an adverse opinion approached him, he received it differently. The phrase in our Resolutions, "hospitality of thought," is an especially happy one. When the opinion different from his own was advanced, he agreed with it no more than before, but he received it hospitably. He greeted it, not with the welcome of a friend, but with the courtesy with which he would have received an opponent under his roof.

Age, Mr. Chairman, has many blessings. Among the chief, perhaps, is this, that if the wine of life is wholesome and pure, it grows sweeter and mellower as it grows older. So it was with Dr. Gould.

At the close of Mr. Thorndike's remarks, Mr. EDWARD WHEELWRIGHT spoke as follows: —

Dr. Gould was pre-eminently an Astronomer; but he was not only that, — he was emphatically a many-sided man. His character, his natural abilities, and his acquirements would have assured him success in almost any sphere of activity to which he might have chosen to apply himself. I must leave others to tell of his attainments in that noble science to which he devoted his best energies; I can only speak of him as a man and as a friend and classmate. I first knew him when we entered Harvard College together in the class which graduated in 1844. I did not know him intimately while in college. We were separated in our studies and recitations by the alphabetical divisions which then prevailed, and in the classical department by his superior scholarship. We never roomed in the same building nor boarded at the same table. In short, we did not belong to the same set, for there were sets even in those remote days. He came to college well grounded in Greek and Latin, as became a pupil of the Boston Latin School and the

son of one of its most distinguished head-masters. He naturally took high rank from the outset in the classical department, and, as already mentioned by Mr. Sears, the first college distinction awarded him was a Greek version in the Exhibition of 2 May, 1842.

At the Dinner given to Dr. Gould at the Vendôme, 6 May, 1885, President Eliot, as reported in the Boston Herald, said, "I suppose one reason why Dr. Gould gave a good deal of time to the study of Greek when he was in college was that it was a required study then and that he had to." But that was certainly not the only reason. He loved Greek and Latin for their own sake, and because he believed that a certain familiarity with them was an indispensable part of a truly liberal education.

In a speech at the Annual Dinner of the Latin School Association in 1886, he made a noble defence of the study of the classics as a sure foundation for scientific investigation, using the words in their broad significance.

". . . Signs are not wanting," he said, "that the cause of scholarly culture in America is in greater danger now than ever before since our forefathers' feet first pressed New England soil. '*Quis custodiet ipsos custodes.*' But in spite of all the adverse tendencies, are we not warranted in the hope and faith that the Boston Latin School will remain, as of old, a bulwark of classical training and letters against the pseudo-utilitarian tendency of the times; that its energies are not to be devoted solely to the attainment of just so much education, and in just such directions as may happen to be requisite at the time for passing examinations for admission to this or that institution of higher grade; but that its pupils may be assured of such culture as is indispensable for scholarly training, and the school vindicate its old renown as a centre of education for a sphere of far greater radius than the limits of our city of Boston. . . . Let it plant again such seeds as it planted of old, — germs of scholarly taste, intellectual refinement, and scientific investigation, — so that her sons may long continue to look to her with pride, knowing that she has been true to her traditions of the past and to the bright and long-cherished auguries for her future. And when I say scientific investigations, Mr. President, I use the words in no narrow sense. Science, or, in the Saxon form, knowledge, are words too noble to be dwarfed by vulgar misapplication. There is no real science but the knowledge of laws. Acquaintance with isolated facts, no matter how numerous, is not science, nor can it ever be transmuted

into science save by the power of generalization, which alone can resolve its chaos into order or transform the mass — *rudis indigestaque moles* — into symmetry and light."

Again, in replying to certain questions propounded to candidates for the Board of Overseers of Harvard College for the year 1886, he said, in answer to the second question, "as to making it possible to enter Harvard without the knowledge of Greek," —

". . . While maintaining that a University should aim at providing instruction in all departments of learning, and that ignorance on one subject ought to deprive nobody of facilities for learning others, it would grieve me if any diploma, of a sort hitherto and elsewhere accepted as a certificate of certain scholarly attainments, should be conferred by our Harvard upon those who do not possess them. I should regret to see the degrees of Bachelor or Master of Arts conferred upon young men who have never learned sufficient Latin, Greek, and mathematics to enter college at present; for these degrees have hitherto had a special meaning, and the procedure would be too much like giving false certificates."

Plainly his zeal for the study of the ancient classics did not need to be stimulated by any official requirement. It is equally plain that his knowledge of Latin and Greek was no impediment to his early attainment of the highest rank in sciences other than philological. It was a help, not a hindrance. In his later years in college, however, he did not feel the need of giving special attention to the classics, and was apparently satisfied with the proficiency he had already attained in this essential branch of what he was fond of calling "an all-round liberal education." Henceforth he felt at liberty to devote himself to those studies more closely allied to what he no doubt had premonitions was to be his special calling in life. In the second Exhibition in which he took part, in the first term of his senior year, he was assigned a disquisition on "The British Association for the Advancement of Science," while at Commencement his part was again a disquisition having for its title "The Infinite in Mathematics." This part, he says in the autobiography which he furnished in 1869 to the first edition of the Class History,[1] "he was not permitted

[1] The Class of 1844, Harvard College. Prepared for the Twenty-fifth Anniversary of their Graduation, Cambridge, 1869.

to deliver for want of declamatory ability." This seems a strange statement in view of his success as a speaker in after life. His style of speaking would not, indeed, be called declamatory; but whenever he had anything to say he knew how to say it, in a manner appropriate to the occasion, whether in English, Spanish, or German.

According to his own testimony, in the Class History above referred to, "he worked hard in college, but not with sufficient regard to college routine;" and he adds that he "found Channing a severe trial." This means, I suppose, that he found it difficult, as many others have done, to write themes upon set subjects in which he took no special interest. He was wont also in later years to complain of the injustice of assigning to the rhetorical department an undue influence in determining the rank of the student. It was probably owing to his comparative ill success in rhetoric that he failed to attain a higher place in the rank-list of his class, and that he was given at Commencement a Disquisition only, and not a Dissertation or an Oration. His standing, however, was sufficiently high to entitle him to membership in the Φ B K. In the Commencement Order of Exercises he is noted for "high distinction" in *Mathematics* and *Physics*. Another cause for his failure to obtain a higher rank in college might be found in the fact that at the end of the freshman year he incurred the penalty of "suspension" for four months for complicity in the making of a bonfire. This involved the loss of a considerable number of marks. It will be difficult, doubtless, for those who knew Dr. Gould only by reputation, as a grave mathematician and astronomer, to conceive of him as participating in this boyish prank, in which, however, he had as coadjutor and fellow-sufferer a classmate who is now a most grave and serious member of the legal profession, —

"With many a well-placed trust weighed down."[1]

Boys will be boys, even if they afterward become astronomers and trustees; and to be thoroughly a boy is not a bad preparation for becoming emphatically a man, *totus teres atque rotundus*.

But to those who knew him in the familiar intercourse of every-

[1] Verses by Charles Henry Boylston Snow, Class Poet, recited at a Class meeting in 1864.

day life, Dr. Gould was never the *grave* mathematician and astronomer. He was no pedant. He never posed, never paraded his scientific acquirements. He did not go about, so to speak, with a telescope under his arm and an equatorial in his waistcoat pocket. He did indeed delight, in his later visits to Europe, as he has himself told me, to meet one or more of his old instructors or fellow-students in astronomy, in some quiet Swiss valley, and to lie on the grass and "talk shop" with them by the hour. Rarely, if ever, was there anything professional in his talk among his non-professional friends at home.

My intimacy with him increased after leaving college. My position as Secretary of the Class brought me constantly into relation with him as one of the original members of the Class Committee, and made me the vehicle of communication between him and the Class as a body. It thus fell to me to acquaint him with the action taken by the Class on several occasions, notably on the death of his wife. During his long exile in South America, the fact that I had myself once been in that part of the world, and that I had some knowledge of Spanish and of the characteristics of Spanish American populations, was a new bond of sympathy between us. He was a constant attendant at the Annual Meetings of his Class on Commencement Day when at home, and was always the life and soul of these meetings. His cheerful and cordial manner, his great fund of anecdote, his retentive memory of whatever had taken place in our college days, his eager desire to know all that had happened to each of us since graduating, his exuberant wit and humor, his contagious laugh, his apt quotations, especially from the classics, — all these made him a most delightful companion. He was fond of a good dinner and of good wine, though using always a wise moderation in the enjoyment of both, and has been more than once heard to declare that so long as he was President of The Colonial Society those adjuncts should never be wanting to its Annual Meetings. It is fitting that in memory of him the custom be preserved. *Esto perpetua!*

Evidence of Dr. Gould's versatility may be found in the list of societies, other than scientific, to which he belonged. He was a member of the Massachusetts Society of the Cincinnati and the Bunker Hill Monument Association, of both of which he was Vice-President; of the New England Historic Genealogical So-

ciety, in which he was for a time Councillor and afterward Vice-President; of the Bostonian Society; of the St. Botolph Club, and not a few others.

Genealogy was a favorite study with him. A year or two ago he completed an exhaustive genealogy of the Gould family which had occupied him at intervals for forty years.

He also, as a diversion, gave from time to time considerable attention to the study of astrology.

Intensely patriotic, he was very proud of his inherited membership in the Cincinnati, whose meetings he never failed to attend when possible. Of the Bunker Hill Monument Association, he could boast that he was the eldest in date of all living members, his father having caused his name to be entered on the rolls when he was only a few months old.

An instance may be given of his qualifications for a mercantile career. His father, after retiring from the position of Principal of the Boston Latin School, engaged in trade with China and the East Indies. In these enterprises he had met with reverses, and at his death, in 1859, his affairs were greatly embarrassed. Dr. Gould, as his executor, found it necessary, in order to settle the estate, to continue his father's business. This he did for more than four years with eminent success, proving himself to be possessed of business abilities which, had he so chosen, might possibly have made him one of our merchant princes.

But Gould valued money only as a means, not as an end, and was glad, at the earliest possible moment, to lay aside the merchant's ledger and to take up again his astronomical studies. His whole life is a shining example of unselfish devotion to science. He was wholly free even from personal ambition. He strove not to make himself a name, but to advance the cause of Science, and especially to gain for American Astronomy an equal footing with that of Europe.

Of his connection with this Society and his work in its behalf it is needless to speak. One of its Founders, he has been from the beginning its head and its heart. To him we all looked for counsel and guidance and encouragement. Its interests were very dear to him, and its success his constant desire. We certainly owe it to him to do our utmost to make it all that he wished it to be.

Dr. George L. Goodale then said : —

Mr. Chairman and Fellow-members of The Colonial Society of Massachusetts:

The vivid recollection of Dr. Gould's presence with us at our last meeting makes it impossible for us to think of him as absent now. And therefore we all feel that the words which we bring as a tribute to his memory must be those which we should not hesitate to employ if he were in truth with us here to-day.

You have asked me to refer to Dr. Gould's relations to scientific organizations. Perhaps your wishes can best be carried out if our time is devoted to a brief consideration of Dr. Gould's conception of the highest type of a scientific organization, namely, a University. My knowledge of his views comes from frequent interviews and from a study of his writings on this subject.

My personal acquaintance with him began soon after his return from South America. Brought nearer together by our official associations in the American Academy of Arts and Sciences and the National Academy of Sciences, this acquaintanceship was exchanged for the more precious treasure of intimacy. Although we differed widely in regard to men and things, and sometimes engaged in rather hot controversies, this intimacy was never clouded.

On one occasion I brought to him some perplexing questions concerning the relations of certain plants of the Argentine to their climatic surroundings. The extent and accuracy of his knowledge in regard to this matter, which belonged in a field considered remote from that which he had made his own, introduced naturally the subject of broad scientific training and higher education. The views which he expressed regarding the constitution of colleges and universities showed that he had given to the subject most serious attention. When, however, I said to him that his views were abreast or even a little ahead of the times, he replied that he had published his opinion a good many years ago, in fact, before steps had been taken to supplement college work by university training in this country; but he did not refer me to his printed statement of his views.

Lately I have found the published expression of these opinions. The address to the Phi Beta Kappa Fraternity at Hartford, in

1856, forty years ago, embodies Dr. Gould's views relative to higher education. Let us remember, as we review them, that they were uttered before Harvard began its transformation, — before, in fact, any of our great colleges had struck out the new paths. Inspired by his studies in Europe, Dr. Gould sought for our country University advantages.

Forty years ago the American idea of a University was largely that of a group of professional schools clustered around a common centre for greater convenience in giving professional instruction. May I ask you to see how completely Dr. Gould's conception at that time differed from that of his contemporaries, and how rightly it can be said that he had fully realized the necessity of having in our country a true University. He says: —

"It is not solely to diffuse the quickening, life-giving streams of truth, but to fill and keep high the fountains whence all the channels are supplied. It is not so much for preparing the student to be a lawyer or physician, as for teaching him the fundamental principles of law and medicine, and imbuing his whole being with the deep truths which underlie those principles themselves. . . . If, for the sake of condensation and antithesis, I might presume to clothe my meaning in a somewhat paradoxical form, — while the usefulness of a College may be measured with considerable propriety by the number and character of its students, that of a University is in the ratio of the number and character of its professors. . . . Surely there can be no confusion as to the boundary line between these two distinct institutions. One is designed to answer the demands of the community and of the age; the other to point out the paths and lead our country on to a higher, nobler, holier, sublimer eminence than it could otherwise attain, or than would otherwise be striven for."

And, further, —

"We want no University keeping up with the times, and commending itself to the public approval."

Those who had the privilege of knowing Dr. Gould intimately will bear me witness that this was one of his characteristic paradoxical forms of speech. It must be qualified by what he had in mind and what he said next: —

"We want one which shall be just as far ahead of the age as is consistent with being within hail, — which shall enlarge and expand the

mind and taste and appreciation of the public, compelling the admiration of that public, not soliciting its approval. We want a University, which, instead of complying with the demands of the age, shall create, develop, and satisfy new and unheard-of requisitions and aspirations, — which, so far from adapting itself to the community, shall mould that community unto itself, and which through every change and progress shall still be far in advance of the body social, guiding it, leading it, urging it onward.

"That men are born with faculties for progress, with inward promptings to investigation accompanied by the capacity to conduct it, is a sufficient indication that the Creator and Supreme Disposer meant these powers to be cultivated. And the experience of all humanity teaches, that His providence is so exerted as to reward intellectual triumphs by temporal blessings, conferred, if not on the individual, at least upon the race. We know that strong taste, impulses and capacities for searching out the secrets of nature, developing the beauties of art, discovering the laws of existence and of thought, are sparsely and diversely conferred. And since, without the support and aid of society, these lofty impulses cannot be gratified, the conclusion is inevitable, — that it is a duty of the State to promote the culture of special mental powers as well as the education of general capacity, and thus to ensure for the benefit of the Commonwealth the maximum spiritual activity of its citizens. I will not attempt to follow, expand, or illustrate this argument. To you its pursuit, expansion, illustration are in no wise necessary. Indeed, an excuse is needed for the allusion to what is so self-evident and palpable. Would that the apology were not at hand! But till our own America may boast a University where all her sons, whatever their peculiar bent or taste, may find an opportunity to gain new light and larger knowledge, we must dwell on this, were it the tritest of themes, and lay stress on it, were it the most elementary of axioms. . . . The mode of organization is a secondary question, no matter how great may be its intrinsic importance. . . . Spread out before us is the history of a hundred nations, whence we may learn merits, dangers, safeguards. . . . Under any system there will be a living force, a vital shaping energy, which will soon mould everything to such conformation with the other institutions, the manners, the habits of the age, as is needed for establishing the mutual relations through which all the blessings are to flow. In other lands and times, this adaptation has been the work of a 'historic development.' But in our land it will follow, in like manner, in immeasurably shorter time, from the increased vigor of all the influences which act upon the body social and politic; and, chief of all, from the great fact that it concerns no

privileged class, but the whole people, among which and for which and by which it is to exist."

Mr. Samuel Wells spoke as follows: —

Although our dear friend, Dr. Gould, was engaged all his life in absorbing occupations, in work that seemed to have no limit of hours, no marked resting-places such as men of business or even professional men find arranged for them, yet he gave much of his time to social intercourse with his fellow-men. It did not seem to be with him so much a calculation as to the usefulness of recreation, as a natural and spontaneous enjoyment in the society and conversation of those he loved. Often and often he would drop the work at his desk, and in harsh and inclement weather go to a distance to join a circle of congenial spirits. No one was more welcome than he; his hearty clasp of the hand, his pleasant, often joyous smile brought happiness wherever he came. He was so natural with it all, and so easy and friendly with every one, that when he entered a room where were his friends they would gather round him at once to receive his greeting and listen to his kindly words. He had also a keen sense of humor and a natural and vivacious wit that enlivened his conversation and made intercourse with him always interesting and desirable. It was this love of friends and friendship that led him to join many societies which had social and other functions not connected with his daily work.

Dr. Gould was especially attracted to Freemasonry by the disinterested friendship that he found embodied in its principles and demonstrated in its practice; and the lodge in which he first learned these principles and witnessed their examples, the Lodge of St. Andrew, in Boston, became his Masonic home. For many years he knew every member of the Lodge, and was beloved by them all. He was much interested in the history of this Lodge, chartered in 1756, containing among its members many distinguished men, of whom Gen. Joseph Warren and Col. Paul Revere may be mentioned; and it was expected that Dr. Gould would contribute largely, had he lived, to a Memorial to be prepared to celebrate the one hundred and fiftieth anniversary of the foundation of the Lodge.

Dr. Gould's character and abilities were such as to entitle him to hold any Masonic office that he might desire. The highest

position he attained was that of Deputy Grand Master of the Grand Lodge of Massachusetts. He performed the duties of this office, at the sacrifice of his personal comfort and the neglect of his favorite pursuits, with entire satisfaction to all who were associated with him. No doubt he could have been elected to the office of Grand Master, but he felt that the duties of that office would be too engrossing, and he therefore declined to be a candidate for it.

He was much gratified on receiving the complimentary Degree known as the Thirty-third, or last, conferred only on distinguished Masons; and this honor he fully appreciated.

He found in these associations the gratification of that thirst for love and friendship, honest and truthful, that he longed for. He did not love everybody; he frankly and freely expressed his dislike of shams and pretensions and selfish forthputting; but the true, faithful, and unselfish friend, even if wanting the highest order of intellect or the refinement of scholastic education, he could grasp by the hand and with his frank and beautiful smile say, "My brother."

To those of us who have been associated with him in these quiet retreats, free from annoying cares, from political or polemic strifes, where heart went out to heart and mutual affection guided our intercourse, his loss is irreparable, his absence leaves a void we cannot fill, and the shadow of our bereavement will never pass away.

The Hon. George S. Hale then said: —

Mr. Chairman and Brethren of the Society:

It is most fitting that I should leave to those whom you have asked to speak to you the larger portion of the eulogy to be given to our dear friend; but I should be very sorry to have a meeting like this close without one word, at least, from myself in recognition and token of a friendship of fifty years — more than fifty years — without a cloud or an interruption, although I cannot assume or expect to add to the interesting reminiscences and the justly measured phrases of glowing appreciation which have occupied us this afternoon.

Of the associations that have already interested you so much, my own recollections are close and dear. The Class of 1844 were

justly proud of him, and he was kind and devoted and affectionate to us. We were not needed for his glory, but we were very glad to share it by reflected light. Even in such an assembly as this, we shall be excused for the pride with which we remember the trio which adorned our list, — Gould, Parkman, Hunt, — entitled to no second honors in Science, History, or Art. In the Harvard Peerage, which fastidiously preserves a list of "certain honors and positions" held by her sons for nearly two hundred and sixty years, there are only three names among the Bachelors of Art — Edward Everett (1811), George Bancroft (1817), and Alexander Agassiz (1855) — which bear a larger number of these tokens than his own. I recall the quietness with which not long since he spoke of one of great rarity and dignity then recently received from Prussia as Knight of the Order for Merit, recorded of one only of those three besides himself.

During a large part of his life I had not the pleasure of seeing him and enjoying that friendship of which I have spoken, and which grew warmer and warmer from the days of the kindly hospitality of his father's house — which Mr. Sears has described — to the last hours of our meeting. It is with delight and pleasure that I recall his companionship, but much of his life I could not share. His own sacrificial absence, his devotion to his duties, and the time which he gave to scientific pursuits here and abroad separated him from us. When he returned after what I have spoken of as his sacrificial absence, it was with pleasure that I was permitted then to express our feeling in regard to him in a few lines communicated to the meeting with which we welcomed him. I hope it will not seem a liberty if I read them to you now, although not new nor written for this occasion, and also I hope that they may be preserved as the expression on the records of this Society of my appreciation and affection.

Bright Argo brings a hero back,
With tales of distant worlds and fair,
Shining in skies beyond our sphere,
Yet weighed and numbered by his care.

Bright with the light of Southern stars,
He seems to wear a Southern cross;
Fit token of the honors won
Through toil and grief, and pain and loss.

The wanderer we welcome home,
From far-off lands to us unknown,
Which see, with pride, his name displayed
On their bright skies, thus made his own.

But not alone "The Southern Crown"
Shall cast its halo round his head:
The stars he worshipped in his youth
Their shining welcomes o'er him shed.

May their "sweet influence" give him rest;
His be the honors they confer;
And long unsaid the fated words, —
"*E vivis cessit stelliger*"!

May I repeat in another sense the hope that those fated words are still unsaid, and may we remind ourselves that although marked among the stars he still lives, starred himself.

It has been said that he had finished his work. I was a little surprised, remembering that one of his last remarks to me was, "I hope I shall be able to finish my work." I am very glad if that hope has been, as it has been said, better and more fully accomplished than this may have seemed to imply; but there is a sense, which we all recognize, in which his work is not finished and never will be finished, for it can never be ended for such a mind.

"O, thinking brain that lately with us wrought,
By death surprised at thine unfinished task,
For one a thousand lives thou shouldest ask;
Learning is endless, infinite as thought.

"Go forth, great mind, raised, now a deathless soul!
See, weigh, prove all things scanned with larger eye
Ere thou that slakeless thirst canst satisfy,
What æons needed to o'errun the whole!"

Dr. WILLIAM WATSON called attention to one subject, in which Dr. Gould was deeply interested, to which allusion had not been made by any of the speakers. He said: —

May I say a word with reference to my own acquaintance with Dr. Gould? The allusion which Dr. Chandler has made to Argelander recalls the fact that something like twenty-five years ago I was the bearer of a message which I delivered in person from Dr.

Gould to the venerable astronomer at Bonn; and I can never forget the feeling of affection which the old astronomer displayed toward Dr. Gould, and the cordiality with which he greeted me on his account.

One thing more has not been mentioned with reference to Dr. Gould, and that is his complete success in filling Mr. Hilgard's place as the representative of the United States Government in the International Bureau of Weights and Measures at Château Breteuil, just out of Paris. His achievements there were very welcome, and he constantly labored for the advancement of what was very dear to him, — the establishment of the Metric System in the United States.

The Corresponding Secretary then presented the following letter addressed to him, but intended for this Meeting, from Mr. Henry H. Edes: —

Washington, D. C., 14 December, 1896.

My dear Mr. Davis, — It is a matter of deep regret to me that I shall be unable to attend the meeting of The Colonial Society on Wednesday and have a part in the memorial tribute of affection and respect which will then be paid to the memory of Dr. Gould; but absence from the Commonwealth will preclude my being present.

As our fellowship includes so many personal friends of our late President, the affection and esteem in which he was held, his remarkable attainments in science, his achievements at Cordoba, and the charm of his conversation and companionship, will not lack fit expression and commemoration; yet I cannot refrain from sending this brief written expression of my own feelings on this occasion. Personally I have lost by Dr. Gould's death a very dear friend whose sympathy and cordial co-operation in various undertakings I have enjoyed for many years. Of his many noble and lovable qualities, his genuine modesty — an attribute of great minds — always impressed me as exemplary. When our organization was in embryo, I asked him to join with our associate Mr. Inches and myself in signing the invitations, to attend the Preliminary Conference which resulted in the organization of The Colonial Society of Massachusetts. With characteristic modesty he demurred, saying that while he sympathized with the movement most heartily and would gladly do what he could to aid it, he thought that some other name would carry greater weight than his. He finally consented, however, to append his signature, but it was with the greatest difficulty that he was persuaded

to sign *first*. The success of the movement was most gratifying to Dr. Gould, and he gave to the Society from the beginning not only the prestige of his great name but the most devoted and constant service. No detail of our work was deemed too trivial to deserve his active interest; and his plans for our future were various and practical. He was impatient of the unavoidable delay in putting the Society on a firm financial basis, and he had much at heart the success of the plan proposed at our last meeting for procuring an endowment; indeed, the very last time I saw him, — only three days before his death, — he called on me to express his regret that he had inadvertently omitted to name, during the Annual Dinner, the Committee contemplated in Mr. Whitney's motion. This Committee, which Dr. Gould was intending to appoint at the meeting next Wednesday, must be named at a subsequent meeting.

As I write, the thought comes to my mind, Why may not the Memorial which without doubt will be raised to this eminent scholar by his friends and admirers take the form of a permanent endowment of a Society he helped to found, of which he was President at the time of his death, which enlisted so large a share of his sympathy, of whose reputation he was jealous, and whose permanence and success he ardently desired?

Very truly yours,

Henry H. Edes.

Andrew McFarland Davis, Esq.

The Resolutions were then unanimously adopted by a rising vote.

JANUARY MEETING, 1897.

A STATED MEETING of the Society was held in the Hall of the American Academy of Arts and Sciences, on Wednesday, 20 January, 1897, at three o'clock in the afternoon, the First Vice-President, the Hon. JOHN LOWELL, in the chair.

After the Records of the December Meeting had been read and approved, Judge LOWELL said: —

It is my duty to announce the death, since our last meeting, of General Walker, one of the most distinguished members of this Society. The history of his life has been repeatedly given in the newspapers since that event, and in the Resolutions passed by different organizations of which he was a member. I will only recapitulate here shortly some of the principal events of that history. He had a natural and hereditary fondness for what Carlyle calls the "dismal science," the one with which most of us are afraid to meddle. After he was graduated from Amherst College in 1860, at the age of nineteen, he studied law in the office of Devens and Hoar at Worcester. Fortunately for us, his intention to become a lawyer was not realized; but the course of his life was changed by the breaking out of the war. We have plenty of good lawyers in Massachusetts, but there are few men who could do the work that he has done. There are few who could rival him in the study of Statistics; few, as I have said, who would study as he did the science of Political Economy; few who could so admirably fill the position of head of a great collegiate institution.

Enlisting in the regiment recruited by his friend Charles Devens, he soon achieved distinction in the war, and during the last two years

was Chief of Staff — a position of great responsibility, requiring capacity of a superior quality — of that General called "the Superb,"— Hancock. He performed his duties with enthusiasm and won the friendship of his leader. His position as staff officer was not only one of great importance, but it involved personal exposure. He showed courage in the performance of his duties and was wounded once at least. He bore with him from his career in the Army a high reputation for gallantry, for diligence, and for usefulness. He wrote the history of the Second Corps, with enthusiasm, but with little mention of himself.

After the war General Walker became a journalist, as assistant editor of The Springfield Republican. Afterwards he was a professor at Yale for some years. Still later he was the head of the Bureau of Statistics. He was the Superintendent of two Censuses and successfully mastered and marshalled their statistics, and made them the best we have had. He was for a time a lecturer at Harvard. Finally he found his most appropriate place as head of the Massachusetts Institute of Technology. Under his supervision the Institute has flourished, and greatly increased in the number of its teachers and pupils and in the variety of its courses; and this success, although not altogether to be credited to him, is nevertheless due to his influence in no inconsiderable part. It does not need that the head of such an institution should be a scholar, a lecturer, a teacher, but it is essential that he should be a man who under emergencies could command an army or be the head of a great industrial enterprise, — one who has a knowledge of men and a faculty of dealing with them. He had these qualities, combined with extraordinary powers of conciliation. He had the power of managing not only men, but boys. The qualities of his heart had as much to do with his success as those of his mind. Besides the performance of his duties at the Institute, his activities were manifold, perhaps too much so for his strength.

The success of the Institute made a great impression throughout the world. Last year students came there from all the countries of America, including Canada, from Europe, Australia, and from Japan, to take advantage of the courses of instruction given there. This was partly due to the world-wide reputation of its head. He was especially well-known in Europe. He received the highest honors not only of Harvard, Amherst, Yale, and Columbia

Colleges, but of the Universities of Edinburgh, St. Andrews and Dublin, and other European institutions of learning, I believe.

At our last meeting the members of this Society were called upon to express their feelings at the loss of their President. Dr. Gould was to us all that Walker was to the Institute of Technology. Walker was sixteen years younger than Gould, and might confidently have expected many years of continued usefulness. Like Gould he was stricken suddenly, without premonition and without loss of any of his faculties. In our liturgies we pray to be delivered from sudden death, but in our hearts we pray for it.

We have no communications from him, no memoir from his pen in our published Transactions. He has spoken to us at our Annual Meetings, and it is quite probable that if he had lived he would have found time in the midst of his multifarious activities to do something for us of a more permanent character.

At the conclusion of Judge Lowell's remarks, Dr. George L. Goodale paid a warm tribute to the memory of his classmate and friend, giving a graphic account of General Walker's college life at Amherst, and remarking upon his tact and influence with the undergraduates, his studious and methodical habits, his close economy of time, and his powers in debate.

The Hon. George S. Hale spoke of General Walker's life in Boston as the head of the Institute of Technology, — which maintained its high rank at home and abroad under his wise administration, — and as an active member of many literary and scientific associations and social clubs. Continuing, he said: —

President and General Walker, to give him his most conspicuous titles, was born in 1840, graduated at Amherst in 1860, enlisted in the Army in 1861, was Chief of Staff, wounded at Chancellorsville, a graduate of Libby Prison, an Adjutant-General, a Brevet Brigadier-General, an officer of the French Legion of Honor, a Latin and Greek teacher, an editor, Chief of the Bureau of Statistics in the Treasury Department, Superintendent of the Ninth and Tenth Census, a Professor of Political Economy and

History in The Sheffield School at Yale, a Lecturer at Harvard and Johns Hopkins, and, in 1881, elected President of the Massachusetts Institute of Technology, — fit successor of the admirable William B. Rogers. He wrote upon General Hancock, A History of the Second Army Corps, The Making of the Nation, and the Indian Question; on Wages; Land and its Rent; Money; Money and its Relation to Trade and Industry; Political Economy, etc.

I might speak of General Walker as a citizen and public official, an educator, an author, an economist, a historian, a statistician, an orator, a soldier, and as our associate, or in his happy hour of social pleasure —

> "A man so various, that he seem'd to be
> Not one, but [many men's] epitome."

I do not say *all mankind's* epitome, for I do not include the motley array which Dryden credits to his hero. He was entitled to high qualities, moral and intellectual, by inheritance, as the son of Amasa Walker, — a student, an economist, busy in public affairs, — whose book on the Science of Wealth, a manual of Political Economy, went through eight editions.

Honors were showered upon General Walker. Every morning we met him with a new Doctor's Halo. He was a Doctor of Laws from Amherst, Yale, Harvard, Columbia, and the Universities of St. Andrews, Edinburgh, and Dublin. He deserved these honors, and made people like to honor him. Always accessible, although always at work, always at leisure, and in his reception-room never repellent, those of us who have had occasion to consult him cannot fail to recall with pleasure the open office, almost on the street, to which he welcomed us with cordial counsel. The manner of his sudden death may lead us to suspect that this activity on his part prepared the way for it. He loved social life and was fluent and ready in social intercourse. As a citizen, most independent, free from personal interest, and ready for any public work like Parks, Schools, Libraries, or Art, —

> "*Totus, teres atque rotundus.*"

MR. JOHN NOBLE read the following paper on —

THE EARLY COURT FILES OF SUFFOLK COUNTY.

In the office of the Clerk of the Supreme Judicial Court for the County of Suffolk is a remarkable and unique collection of papers running through the whole of the Colonial and Provincial periods, and extending from 1629 to 1800. They are more than 250,000 in number, and consist mainly of what were once the files of the various courts of the Colony and the Province of Massachusetts Bay, of the Superior Court of Judicature held in the several counties, and of the Supreme Judicial Court previous to the present century. They are made up not only of the original pleadings in the cases, but also of exhibits, evidence, copies of records and documents used in the trial of those cases, and of all sorts of collateral matter introduced therein. Besides these files of court there are great numbers of miscellaneous papers, records, wills, deeds, correspondence, and papers of every sort of legal and historical character, to be referred to hereafter.

How such a collection, so large and of such varied character, originated and accumulated admits partly of probable explanation and is partly matter of surmise. Through the Colonial period the Assistants appear to have exercised all the three functions of government, judicial, legislative, and executive, to a greater or less degree; at the outset and in the early years all these powers seem to have been vested in the Magistrates sitting as a Court of Assistants, and it was only gradually that the separation of the government into different branches took place. Matters of every description were within their cognizance. Their records and documents would naturally contain papers of every character and on almost every subject of public concern, some in the shape of originals, some as copies. Carefully preserved and handed down from year to year, through the proper official channel, they would in themselves make a numerous collection. Then, as their judicial powers became more distinctly defined and were separately exercised, the files of court, if they ever had that distinctive form, and later the files of their successors, the courts of appellate and highest original jurisdiction, through the lapse of time, the vicissitudes of years, carelessness, accidents, and indefinite assignable causes, lost their original file arrangement, and became mixed

in a heterogeneous mass, — perhaps, however, no less carefully preserved.

Into this collection might naturally come valuable papers and documents deemed worthy of preservation, which had no prescribed abiding place. Down to a comparatively recent time, it had only a qualified recognition as a part of the court records, though held jealously within court custody. It was bulky and cumbersome, more or less in the way, undoubtedly, and so it had floated about, a part of it at least for a century and a half, from one place of deposit to another, — cellars, attics, chests, drawers, and various receptacles. There is a tradition that some of the papers were stored in the Old South Meeting-House during the Revolution, and that the chests were broken open by the British soldiers, who found softer slumbers by spreading their blankets on the contents. Certainly the appearance shows rough usage and is not inconsistent with such a supposition, and the cinders of British pipes may account for many suspicious holes.

Until the present work of restoration and arrangement was begun, a large part of the papers was in the custody of the Superior Court, though even then supposed unquestionably to belong to the Supreme Court. This may be easily accounted for. Down to 1855 the clerkship of the two courts in Suffolk County was joint, the two officials serving in either. Upon the establishment of the Superior Court for that county in that year, in place of the Common Pleas, the clerkships were made distinct. One of the incumbents cared little for such accumulations of the past, the other cared much. The latter, with his antiquarian and historical predilections, gladly assumed an undesired and unprescribed charge, and carried this portion of the treasures to a new field. This part of the collection was known to antiquaries, genealogists, and local historians; it had also furnished material for many valuable and important legal writings.

Between 1875 and 1880 various efforts were made for the safety and preservation of this great mass of valuable and important papers, to collect them together, bring them into the proper custody, find a safe lodgment for them, and arrange them for convenient reference and use. Chief Justice Gray was especially interested in the matter, and once remarked that could this purpose be satisfactorily and successfully accomplished in his time, he

should regard it as one of the best monuments of his administration. Various obstacles, however, came up and the undertaking was delayed, but not abandoned. Finally, in 1883, all difficulties had been overcome, and satisfactory arrangements made for accomplishing the work.

On the twenty-third of October, 1883, an Order of the Board of Aldermen was approved by the Mayor "that the Clerk of the Supreme Judicial Court be authorized . . . to arrange conveniently for examination and reference the Early Files in Suffolk County;" and an appropriation was made for the purpose; and later a further order was passed authorizing him "to employ such assistance as will be required." An Order of the Supreme Judicial Court, through its then Chief Justice, Marcus Morton, was made that its Clerk,

"in pursuance and furtherance of the Order of the Board of Aldermen, . . . be directed to remove all the Court Files and papers now deposited in various drawers in the recording room of the Clerk of the Superior Court, or wheresoever the same be; and also any papers and files deposited in various boxes, chests, and otherwise, in different rooms in the Court House . . . to such room in the Court House as he may be authorized to take for the purpose of carrying out and executing said Order; and to take all necessary and appropriate measures"

therefor. A room was duly assigned, to which the entire collection was removed at once, and placed in security. All was done, of course, with the concurrence and approval of the Superior Court, which gave every assistance in the matter, and at last the work was begun.

Carrying out these orders, Mr. William P. Upham, under whose charge the Court Files in Essex County had been so satisfactorily arranged, was selected as the most competent and fit person, and engaged to take the direct charge of the work of arranging, repairing, and mounting the papers; and with a good force of assistants the start was made early in December of that year, 1883. Many of the papers were in a deplorable condition, in the last stages of disintegration and decay, — some at first sight seeming beyond the hope of restoration, and all needing repair to a greater or less extent. All, with scarcely an exception, have been repaired and preserved; a very few, a percentage not worth considering, were so caked and matted together as to defy every

solvent and process tried to separate them, and remained to the last a paper brick, — preserved however, to await further developments and advances; and in a very few cases nothing was found but a mass of fragments too minute to be recognized or distinguished, or only a residuum of dust.

The work of repair and preparation was difficult and delicate, requiring the greatest care and dexterity. It would take too long to go into any details of the various and successive processes; the papers speak for themselves. These manuscripts have now been cleansed from the dust of years, repaired, strengthened, mounted, and securely bound in some six hundred folio volumes, accessible for an indefinite future. They have been arranged by cases, wherever practicable, and in strict chronological order for the one hundred and seventy years which they cover. Wherever found in their original files they have been kept together, and wherever by means of any indorsement or other indication they could be restored to their original arrangement, this has been done. It has been the intention to arrange the whole collection in one body, in the order of time of their use in the courts wherever ascertainable; where this cannot be known, they have been arranged chronologically by their last dates. The collection consists accordingly of a chronological series of papers, used in successive suits, and parallel with the Court Records, interspersed with manuscripts which cannot be identified with any particular case, but arranged by dates to be brought as nearly as possible to their proper place in the series. The papers are numbered consecutively by cases or by the separate papers where they occur, the numbers reaching about 100,000 of groups. There are also two volumes of Plans, and one of Births, Marriages, and Deaths.

Within a few weeks, through the courtesy of the Massachusetts Historical Society, some 15,000 or 20,000 papers, evidently a part of the files of the Superior Court of Judicature, in a very broken and confused condition, which came into the custody of the Society some seventy years ago,[1] have been transferred to my charge. These papers are now in process of similar arrangement.

Besides the great collection of manuscripts already mentioned, there is perhaps nearly an equal number which have always re-

[1] Reference to these papers is made in the Proceedings of the Society for November, 1896, and January, 1897, Second Series, xi. 183, 221-226.

mained in the Clerk's office and have kept substantially their original file arrangement. These are the Files of the Superior Court of Judicature for all the counties, the County of Suffolk being by law the depository of the Records of the court of last resort from the beginning down to 1797.[1] These files are broken and imperfect, much disarranged and confused by time and perhaps careless handling and accidents; the papers are in many instances worn, frail, and torn, and in need of immediate attention to prevent irreparable loss. On the conclusion of the first part of the work it was deemed advisable to treat and arrange these in a similar manner; and that work is now going on with rapidity and success. When completed it will make a supplemental aggregation of the same character, and the entire collection will fill some 1100 or 1200 folio volumes. A very large number of the missing files of this court have been found in the heterogeneous collection first described, and this goes to confirm the theory there advanced.

In the course of the years that the work has been going on various additions have been received from various sources, — notably some 6000 papers belonging to the files of the Court which were received from the Commonwealth and restored to the proper custody. About an equal number of Records of the General Court and State Papers were transmitted to the Commonwealth, to which they were found to belong.

A working Index, giving the titles of the cases and the principal matter in each case or number, contained in some thirty volumes, has been made; and a more thorough and exhaustive analytical Calendar, supplemented by a classified Index of every name, place, and subject, is now in progress, and is already completed to 1697.

The entire collection when completed will contain not far from half a million of papers, — an aggregation larger and perhaps more important than anything of the kind to be found in this country, unless, possibly, the Massachusetts Archives in the office of the Secretary of the Commonwealth be excepted. It cannot fail to prove of inestimable value and to bring a lasting credit to

[1] By an Act of the General Court (chap. 95 of the Acts of 1796) passed 11 March, 1797, the Records of the Court after 1 August, 1797, were to be kept in the respective Counties. — The General Laws of Massachusetts (edition of 1823), i. 536.

the County of Suffolk, which with a wise foresight and an intelligent liberality has so generously undertaken and borne the expense, and to the successive administrations, Mayors, and Aldermen, who have shown their constant interest throughout, and afforded every facility for the prosecution and success of the work.

As to the contents of the collection only a brief hint in the most cursory way is possible, without any attempt at detail. The main part consists, as already said, of the files of the courts of last resort through more than a century and a half, bringing down the litigation and life of the people from the arrival of the "Arbella" to the close of the eighteenth century. In the cases, and in the miscellaneous papers connected with them, is involved a multitude of subjects of interest in the earlier history of the State, — the days of the Colony and of the Province, and of the beginning of the Commonwealth. The peculiar feature of the whole, in fact, is the remarkable variety and wide range of subjects of historical, topographical, genealogical, antiquarian, legal, and general interest.

Here are the records of famous causes which have become historic, pleadings, special verdicts, reasons of appeal and the answers to them, writs of review, decisions of the ultimate authority, and papers of every legal description and character.

Here are found duly attested copies — so far as matter is concerned just as valuable as the originals — of deeds and wills and contracts; extracts from court records and town records, the originals of which have been lost; among others, copies of portions of the records of the Court of Assistants, to fill the long-existing gap therein from 1643 to 1673, which will prove of immense value in the work of printing the Records of that Court, now under way, and accomplish a result in no other way possible.

Written evidence sworn to before Magistrates was then more in use than oral testimony. There are consequently a vast number of depositions relating to almost every conceivable subject and coming from every part of Massachusetts, and many relating to matters in the other Colonies. The value of these in illustrating local history, and the prevailing habits and customs of the people, as well as their political, religious, and social condition, and also in tracing genealogies and family histories, is obvious. Much of the evidence taken directly in court is in that shape attested by the Clerk.

Here comes in a new and peculiar value of some importance.

As many of the depositions were written by persons unskilled in orthography and consequently written phonetically, they throw light on a subject now little known, but of no slight interest, — the pronunciation of words and names in the earlier times.

Here also are correspondence and documents in the hand-writing of early Colonial Governors, — Winthrop, Endicott, Dudley, Bradstreet, and other leading men in the Colony; and so also of Leverett and others in the time of the Province.

To indicate briefly and summarily a few of the subjects where the papers are numerous, — many concern the early Indian wars; the old French War; the expeditions against Canada, Crown Point, and Louisburg; the story of Fort William Henry; and the Rangers of Brewer and of Rogers. There are also muster-rolls and bills for services and supplies, and other papers of varied character.

The collection is rich in papers relating to the American Revolution and the troublous times preceding it; among other matters the Stamp Act, privateers, hostages, prisoners of war, persons held as "traitors" and as "enemical to the States," and in number beyond even mention. Matters concerning the Indians are frequently found, — Indian deeds, grants, depositions, erection of Indian towns, trials and inquests with Indians on the jury. The Quakers also appear, — examined as to their belief and dealt with; prosecuted for preaching, absenting themselves from worship, withholding their children from baptism, failing to appear at musters. There are also prosecutions of Anabaptists, Atheists, blasphemers, contemners of the worshipful authorities, seditious speakers.

Witchcraft has its gloomy record in some half a hundred groups of cases and papers.

Harvard College has its share, — copies of Charters, deeds, wills, and memorials and trials, — some of which bring out sharply the contrast between the College of those days and the College of to-day.

Other matters and subjects are to be found too numerous for more than a suggestive, random mention, — slaves; apprentices; bond-servants; lotteries; land-banks; inn-holders' licenses, with names of taverns, streets, and lanes in old Boston; piracies in Massachusetts Bay; counterfeitings of the currency, with exhibits thereof; cases of hue and cry; inquests; inquisitions; inventories; contracts; executions; plans of estates, lots, towns, and strips of seacoast; issues of old newspapers; papers valuable for the basis of

monographs, — such as Mr. Davis, Mr. Gay, and others have made such satisfactory use of, and such as have helped to illustrate Mr. Goodell's splendid and monumental work, The Province Laws.

Court records are sometimes supposed to be of limited interest and of less value; they are looked upon as merely a story of past litigation, where the question at issue once settled, they have no further value except to perpetuate such settlement and prevent further question; it is thought that practically they have passed into the limbo of obsolete, dead legal lumber. This is far from being the fact. They define rights in subsequent similar situations, they settle legal principles, they determine legal and judicial procedure, they furnish material for reducing the law and its enforcement to a consistent system, they are the foundation of Jurisprudence. Such papers in this collection have a further value, peculiar and distinctive. They illustrate the course of judicial procedure in the Courts of every kind for a hundred and seventy years. They show the gradual process of development from the simple, primitive manuscript forms of process, writs, summonses, venires, verdicts, executions, warrants, etc., to the more formal printed documents of later time. They supplement the record of legislative enactment by showing how from time to time the laws were construed and administered. They show how the fundamental principles of judicial decisions were changed from being at first largely derived from the Bible to being finally as much tied to technicality and precedent as in England itself.

In the early years of the Colony the Reasons of Appeal and the Answers make much use of quotations from Scripture, as citations are now given from text-books and leading cases. A pertinent quotation seemed sometimes decisive in settling a disputed point. Possibly there was sometimes a readier acquiescence in an opinion of Moses than in one of the Lord High Chancellor.

In the Provincial times are often found elaborate arguments of able Counsel, — a source from which much may be learned as to the construction of the law by the ablest minds of that day.

From these considerations and for numerous other reasons, the Records are of especial value to the student of jurisprudence; and in many cases, during the early times, they afford the only means of knowledge upon such subjects. A fairly satisfactory series of Reports for more than a hundred years preceding the earliest

printed Massachusetts Reports might be constructed out of the materials here to be found.

Further than the many uses already indicated, these various records and papers are in themselves a no inconsiderable groundwork of history. There is more in them than hard, dry facts, or quaint, barren legal verbiage. They throw side-lights on the character and condition of the country and of the people, through the successive years which they cover. They are something of a study in government, economics, sociology, education, religion, politics, public and private life. A paper dry and unpromising as a Probate Inventory may reveal much of the conditions of the times in numberless directions. Even the adjournment or postponement of a Court may often be not without a certain dramatic interest and historical significance, as, for instance, an Essex term not held in 1694, "by reason of sickness and other more weighty occasions of the Province intervening;" a discontinuance in Hampshire and in York during the Indian War; a postponement "by reason of the sickness or other bodily infirmities of most of the Justices;" at several times from "the prevalence of the small-pox;" again, in 1712, "on consideration of the repeated *insults* lately made by the Indian enemy," and "the present danger of travelling within that frontier;" or again "from the great body of snow in the western part of the Province and the uncommon height of the waters in the roads" in Worcester and Hampshire. In 1772 there was an adjournment in Suffolk of the Court which was to be holden "on the morrow," to a later day, "as grave charges in a Remonstrance and Petition from the House of Representatives were pending before the Governor and Council against Peter Oliver, Esquire, Chief Justice of the Court, and it was uncertain what opinion and resolution said Chief Justice might have formed or would form with regard to the propriety of his sitting and acting in said Court;" again, in 1776, the Court is holden at Concord, "Charlestown being destroyed by the Enemy;" and at Dedham, "Boston having been made a garrison by the ministerial army and become a common receptable for the Enemies of America." Similar illustrations might be given almost without number.

Things seemingly insignificant merely indicate how wide and diversified is the field of inquiry and research, and it is difficult to set limits to the possibilities opened up by these musty relics that

have come down to us. These old manuscripts, too, crumbling with age, brown and time-stained, frayed and torn, and bearing the indescribable air of antiquity, appeal wonderfully to the imagination. There is a mute eloquence in these fragile papers — that have outlived Colony and Province, Puritan Magistrates, Royal Governors and sturdy Rebels, and, as silent witnesses, have seen the shifting scenes of two centuries — which defies expression. As the eye puzzles out the rugged handwriting and the vigorous sentences, the writers seem almost in bodily presence before us. The depositions with their quaint and graphic recitals put us back on the very spot and time; we seem ourselves to be eye-witnesses of the events. The early days are reproduced with a vividness which no formal history can give, and the picture of the times has a local color and atmosphere otherwise unattainable.

Mr. ABNER C. GOODELL, Jr., expressed his appreciation of Mr. Noble's admirable arrangement of these papers in the following words: —

MR. PRESIDENT: — The paper just read describes the work accomplished in Mr. Noble's office so completely, and indicates the value, historically, of that vast collection of manuscript so clearly and appreciatively, that I think nothing further need be said to illustrate the importance of the work which Mr. Noble so persistently and with such admirable skill and judgment has pushed to completion. But since our Corresponding Secretary has called upon me to testify to the use which he and I have made of these Court Files in our work on the legislation of the Provincial period, I do not feel at liberty to withhold my tribute of unqualified praise of the wise prevision and the spirit of enterprise which induced the undertaking, and to suggest that a grateful recognition by the public is due to Mr. Justice Gray and Mr. Noble, for their united endeavors to secure the co-operation of the city authorities of Boston in this great work. I feel also that it would be doing injustice to the memory of the late Mayor O'Brien not to mention that to his efforts, particularly, is due the success of an undertaking of more value to future students of our local history than all the publications which our historical societies have issued during the progress of this work.

I have been credibly informed that some of the old Files of

Suffolk County proved such a burden to an officer who had charge of them many years ago that, on one occasion, he ordered them to be shovelled into the furnace to get rid of the useless lumber! The contrast between the conduct of this man, of old New England stock, and that of Mayor O'Brien, a native of Ireland, with no ancestral claims and no ties of kinship binding him to sacredly regard every record and relic of our past history, should bring a blush to the cheek of every New-England man who reflects upon it.

I most heartily endorse all that Mr. Noble has said of the value of the Reasons of Appeal, filed with the clerks of the Superior Court of Judicature for the first third or quarter of a century, as contributions to our knowledge of the development of Massachusetts Jurisprudence. Indeed, I deem it not impossible to cull enough information from this source to make up a series of Reports of select cases illustrative not only of the origin and growth of the rules of evidence, pleading, and practice, but of the ascertainment and unfolding of the common law, the interpreting of our local statutes and acts of Parliament, and determining how far the latter were in force here, and precisely the effect of the judicial revocation of the Colony Charter upon the ordinances of the Colonial legislature.

Mr. Goodell then, after describing the condition of the Court Files when he began his researches in the damp crypt under the Clerk's office in the old Court House, where they were stored, narrated some instances showing how they furnish clews to the origin of certain differences, which have never been explained, between the practice of the English courts and our own, and closed with a reference to the remarkable results, in certain lines of historical research, of Mr. Andrew McF. Davis's studies of Mr. Noble's collection. These results he considered extremely important in a historical point of view, and, to his mind, they confirm the opinion he has more than once expressed, — that the history of Massachusetts needs to be revised in the light of the vast fund of historical information now made available by Mr. Noble, and the skill and patience of Mr. Upham to whom the details of the work have been intrusted.

Mr. ANDREW McF. DAVIS then said that opportunity had been afforded him to examine this collection and to make use of the treasures which it contained, in a topical research the result of which had been communicated to this Society. He wished to add his testimony to the fidelity with which the work of repairing and mounting the papers had been carried out. Mr. Goodell had many times called his attention to the value of these Files for historical students, yet it seemed to him that use could only be made of them in researches which were confined to narrow subjects, and covered but a limited field of time. Six hundred volumes, containing two hundred and fifty thousand papers, — the present condition of the collection, — could not be satisfactorily examined by any student of general history.

Mr. HENRY H. EDES described a scene which he recently witnessed at Mount Vernon on the anniversary of Washington's death (14 December), where, besides the daily tolling of the bells on the passing river craft, the custom is still annually observed of lowering the flag in front of the noble mansion to half-mast, and placing upon Washington's coffin a chaplet of ivy and a garland of fresh flowers gathered from the gardens upon the estate.

The Rev. Dr. Joseph H. Allen communicated a Memoir of Mr. WILLIAM G. WELD, and the Hon. George S. Hale one of the Hon. MARTIN BRIMMER. The Corresponding Secretary, at the request of the authors, who were unable to be present at this meeting, communicated a Memoir of Dr. EDWARD WIGGLESWORTH by Dr. Henry P. Quincy, and one of the Hon. JOHN F. ANDREW by Mr. Edmund March Wheelwright.

MEMOIR

OF

WILLIAM GORDON WELD, ESQ.

BY

JOSEPH HENRY ALLEN.

In a note of the eighteenth of last August from our late President, urging me to prepare an obituary Memoir of Mr. Weld, he says, "Until quite recently I had cherished the hope of being able to perform this duty of affection myself; but now I have regretfully come to the conclusion that it will be beyond my power." Circumstances appeared to make it not only imperative but proper for me to accede to this request, which was justified by an acquaintance of something more than fifty years, and by personal interest, on near and special grounds, with our friend's career from the time of his boyhood to that of his sudden death.

William Gordon Weld, our late associate, was born in Leverett Street, Boston, 10 November, 1827, and died at his house on Commonwealth Avenue, 16 April, 1896.

The name, which was his grandfather's, was introduced into the family under the following circumstances. On the nineteenth of April, 1775, under the alarm that followed rumors of the skirmish at Lexington, the wife of Eleazer Weld, of Jamaica Plain, fled to Dedham, where her child was born on the eighth of May. On her return, some weeks later, he was brought to the Rev. William Gordon (historian of the War of Independence) for baptism; and when his father was asked the usual question, "What is the name of this child?" he answered, "Your own, sir, if you please." The boy grew up sturdy and independent. At sixteen, or thereabout, he was dismissed, with a box on the ear, from a lawyer's office in Roxbury, for disdainfully refusing to lend a hand in some

household service: "I was sent here to study law," said he, "not to learn housekeeping!" He was then shipped as cabin-boy on a vessel belonging to his uncle, Crowell Hatch; at nineteen was master of a packet-ship sailing between London and Boston; and at twenty-seven was attacked off Tunis by an Algerine pirate, whom he beat back in fair fight, and further, recaptured two American vessels that had been seized: this was two years before Decatur's bold dash into the port of Tripoli and his exploit of destroying the captured frigate "Philadelphia." Captain Weld followed the sea successfully till early in the War of 1812, when he was taken on his home voyage by a privateer almost in sight of shore, and set adrift in an open boat (which it was his first care to return to its proper owners), stripped of the fruits of near twenty years' hard service. For he had owned the ship he sailed in, and, as too often happens in such cases, a correspondent's negligence had left it uninsured against war-risks. The last years of his life were spent in Lancaster, Massachusetts, where several of his children were born, and where he died in August, 1825. He had married, in 1798, the daughter of a Boston merchant, Jonas Clark Minot, eldest brother of the historian and jurist, George Richards Minot. The first of their eight sons was William Fletcher Weld (1800–1881), the father of our late associate, who is well remembered as a large ship-owner and a successful merchant on Central Wharf, a man of great energy, intelligence, and integrity, — also, as those of his nearer circle of friends have testified, of warm domestic affection and great kindness of heart.

The eldest son of William F. Weld, the subject of this Memoir, not only was strongly influenced through life by these family antecedents, but made the family history and genealogy the object of much special study, of which his sumptuously prepared record, now in the library of the New England Historic Genealogical Society, gives easily accessible and interesting proof. To this, by a happy accident, I am able to add a few earlier details which interested him, and which this strongly developed taste in him appears to justify my inserting here.

When in London, in the summer of 1890, I received a letter (from which I will quote presently) from Sir Frederick A. Weld, of Chideock Manor, Bridport, Dorsetshire, — a man who had had a distinguished and remarkable career in the East: he had, as I

was told, gone in his boyhood to Australia, and been afterwards governor of Singapore and of Madras, and was now spending his later years in England, where he died two or three years after. In this letter the name "Weld" is claimed to have descended from the Saxon Edric "the Wild," — that is, "Forester," rendered *Sylvaticus* by the ecclesiastical writers, — well known in the story of the Norman Conquest as the holder of a great estate in Western Mercia, where, in league with the Welsh of the border and with other Saxon chiefs, he maintained for five years (1067–1072) a desperate resistance to the Conqueror, in one raid destroying the town of Shrewsbury, but was at length reconciled and confirmed in his estate. This Edric appears, further, to have been the nephew, or more probably grandson (*nepos*), of a more famous Edric *Steorna* ("the Grasping"), a man of great ability and craft, Lord of Mercia, the treacherous brother-in-law of Edmund Ironside, whom he at any rate, in 1016, deserted and betrayed in his struggle with Canute, and is charged by his contemporaries with having murdered — some say, with his own hand — the following year.[1] This Edric seems to have been the son of one Athelstan, a man in official charge of some ecclesiastical estate. And here the record disappears in the twilight of the old chronicles.

To continue with the letter of Sir Frederick Weld:[2] —

"My father having been a younger son, this place [Chideock Manor] is not the old Weld property, Lulworth Castle being the seat of the elder branch. This place, however, though of less importance, has been since 1248 in the possession of the De Chidiocks and the Arundels, from whom I descend maternally; and I could have shown you curious old deeds and charters from A. D. 1248 downward, if you are interested in such matters.

"I imagine that the Boston family were the Lincolnshire Welds, who probably branched off from us in Queen Elizabeth's time, or [under] James the First. They were Protestants, whilst we were Catholics and Cavaliers. I know that there have been Welds at Roxbury, near Boston, ever since about Charles the First's time.

[1] See Freeman's Norman Conquest (second edition), i. 640; iv. 736. Edric "the Wild," though his career is very obscure, is prominent enough to figure in the background of Kingsley's "Hereward."

[2] This letter has the Weld crest, with the motto *Auspicium melioris ævi; Nil sine Numine.*

"Another old connection of my family with America is through Lord Baltimore. He married Ann Arundel, daughter of Lord Arundel of Wardour; and her sister, Clare Arundel, married Humphrey Weld of Lulworth Castle of that day.

"There was a Weld House in London [near Drury Lane]: its garden walls are now marked by Great and Little Wild — lately Weld — Streets; and they had also another very large House and grounds, called Balmes, in the suburbs; and a manor near Barnet, Hertfordshire, — Holdwell. But the original seat, after 1350, was in Cheshire. Edric the Wild — *cognomento Guelda* (Orderic) — held Wigmore Castle, on the Welsh border. We claim, and have a good case for claiming, descent from him; and I understand that the Welds who went to America have always made the same claim, which is interesting."

The first of the name who emigrated to the Massachusetts Bay Colony was the Rev. Thomas Weld (or Welde), first minister of Roxbury, who was forced into exile, in 1632, by the persecution of Archbishop Laud. He, however, returned to England in 1641, on "some weighty occasions for the good of the country,"[1] and remained there till his death in 1662, an efficient "friend at court" to the Boston colonists. The founder here of the present family was Captain Joseph Weld, son of Edward, of Sudbury, Suffolk, born about 1595, who emigrated hither in 1636. Our late associate was of the seventh generation in descent from him. The succession is as follows: Joseph, 1595–1646; John, 1623–1691; Joseph, 1650–1712; Joseph, 1683–1760; Eleazer, 1737–1800; William-Gordon, 1775–1825; William-Fletcher, 1800–1881; William-Gordon, 1827–1896.

The subject of this notice I recall as I first saw him, a boy of seventeen, taciturn and somewhat shy. He found much of the same difficulty with his grandfather and namesake, under the restraints of a bookish education, and would refer to this, half humorously, in his later years. But a quick and sagacious observation, with a very retentive memory, gave him a mental outfit which always held the respect of his associates and friends. I remember that when a Chinese junk appeared, to everybody's astonishment, in New York harbor, he had an eager curiosity to visit and explore it; and I heard from him, at his father's table, a most intelligent and entertaining description, which needed only a little

[1] See Publications of this Society, i. 153.

literary practice to do credit to a professional reporter. In general, however, he appeared retiring — perhaps diffident — in communication, unless it might be with a very near friend; while, in expressing a judgment he had formed, he would very likely be positive and abrupt. This, with a certain reserve of temperament and diffidence of speech, may have been what led a friend of his to speak of him as "one of the most misunderstood men in Boston;" for there were qualities and there were acts of his which should have been quickly recognized for what they were, as showing a character strongly marked and easily understood.

His earlier business life, for about twenty years, in the commercial house of William F. Weld & Co., appears to have had less directly to do with the larger enterprises than with the confidential service of the firm. Apart from the strong sense of business responsibility, therefore, it may not have exhibited his more strictly characteristic traits so clearly as they came afterwards to be known. These are expressed with great precision by one who has acted for fifteen years as responsible manager in a business enterprise set on foot and largely sustained by Mr. Weld: —

"He had a good deal of courage and enterprise, and particularly tenacity: he would naturally tend to do what was solidly and substantially for the ultimate good of a Company rather than work for immediate profit. He was courageous and reliable in difficult circumstances."

And from the same authority I learn that "the great performance of his life was his successful care [as trustee] of his father's estate, which he doubled by judicious investment;" and that he "was very exact, well informed, and thoroughly posted in the line of real estate and investment, — much better informed than the average man of business."

Again, among the friends most competent to judge, the promptness, courage, and sagacity of his decision at a doubtful crisis were held in as high esteem as the tenacity of purpose so characteristic in him. A striking example of this decision was when the Great Fire of 1872 had swept away a vast amount of property invested in insurance, including that of the Prescott Company, in which Mr. Weld was the principal stockholder. While the ruins were yet burning, he had already planned and was proceeding to carry out the scheme of reconstructing the company on a stronger foundation,

and developing its business on a broader scale. He has since been engaged in directing operations that involved still graver anxieties and were exposed to heavier risks, — in particular, as the President of one of the Cattle Companies of the Western Plains. As to this last, a long tale might be told of difficulties, losses, and hazards, especially in its earlier years, which he met with the same dispassionate sense of what was due to his subordinates, with the same stubborn, usually placid, not always sanguine, but still unbending temper.

In affairs of such complexity it would be only natural if the manner and even the temper of one compelled to direct them from a distance should be described, at times, as arbitrary, dictatorial, and abrupt. If it was ever so with Mr. Weld, two considerations will greatly modify any such judgment of him personally. On the one hand, a very common form of self-assertion, or class pride, was wholly wanting in him: his speech, where it might have been imperious or dictatorial, was noticeably considerate and gentle, so that those in his near personal service often felt an attachment to him affectionate as well as loyal. His elderly butler received me at the door with tears in his eyes on the day of the funeral; and since his own death I have learned that (though he had never spoken of it) he was one of the evening class of boys whom Mr. Weld had trained in early years in the principles of a business education. On the other hand, those whom he has employed in offices of trust have found in him a steady and persevering confidence, where one of equally keen sagacity with his, but hastier in temper, would have broken short off with such agents — perhaps unjustly. To make this clear might require me to specify more exactly; but, while it would be indelicate and invidious for me to offer judgment, I am sure that the trait indicated was such as I have attempted to describe.

It should be added that, while in personal matters he was often very liberal of gifts, his real generosity was even greater in the time and service he gave to the interests of others. For several years of his early business life he taught regularly, twice a week, an evening class of boys in Pitts Street Chapel, "allowing nothing to interfere with this work," serving one year with the same strict fidelity as Superintendent. Thus he helped to organize, and labored very effectively in carrying on, the first experiment in free

evening schools in this city, — an experiment which has since been carried out and developed as part of the municipal system of public instruction. There are now, I am told, men in active business life who look back with personal gratitude to what he was and did for them, in opening to them that opportunity of a higher education.

Another experiment, which proved less successful, was equally praiseworthy in its motive. It was an attempt, made some thirty years ago, to construct — out of a handsome stone building which he bought for the purpose — a model tenement-house, so as to provide under careful supervision a wholesome and cleanly lodging for families, conveniently near to the docks and business streets. He gave a good deal of thought to what proved a troublesome, costly, and, at length, unsuccessful scheme. But he persevered in it, for some years, with his own dogged tenacity of purpose; and it was not dropped until he was foiled by the incorrigible untidiness and heedless unthrift of the class of tenants for whom it was planned.

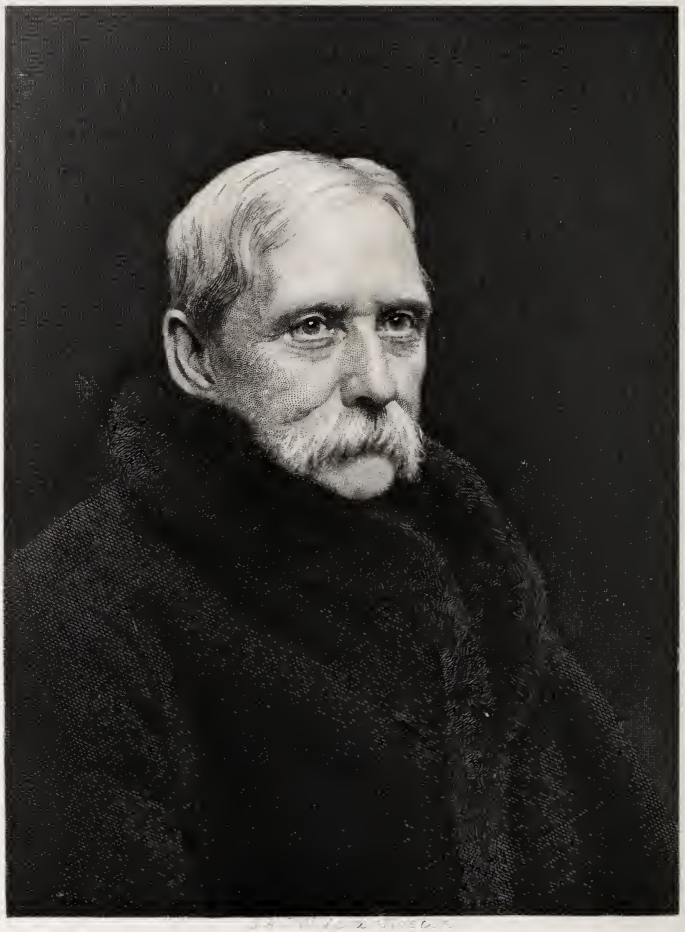
Another scheme in which he was strongly interested has proved, through good management, of great and lasting value to the humbler class of borrowers, who, according to a Report upon the subject, were sometimes compelled to pay on petty loans ten times the legal rates of interest, and more: I have myself had to do with a case where the debtor was charged at the rate of ten per cent a month, twenty times the old legal rate. It was in the interest of such that the Pawners' Bank was established in 1859, — with his active help, though his name is not among the corporators. Under its amended charter, as the Collateral Loan Company, it has in a single year (1894) issued loans to the amount of $677,657, the average amount of each loan being something under seventeen dollars; during 1896 there were made 16,917 loans of five dollars each, or less. Only one in twenty of all the loans has to be settled at auction, and any amount so received over the sum loaned is retained for the owner of the property in pawn. Of this most beneficent institution — if we reckon it by the amount of obscure misery it lightens — Mr. Weld was one of the founders and among the first directors, giving a great amount of time and energy to insure its success.

In the activities which have been now described, as in others which his nearer friends will recall, our late associate showed a

deep sense of responsibility in the holding of inherited wealth. This is further evidenced by the characteristic provisions of his will. Among the objects there bountifully endowed are the Home for Aged Women, of which he had been a constant benefactor and watchful guardian; the Butler Asylum for the Insane in Providence, Rhode Island, which had in him a Trustee actively interested in that charge; the Children's Mission to the Children of the Destitute and the Kindergarten for the Blind, — two of the most beautiful and widely as well as humbly useful of all the charities of this city.

Mr. Weld married, in 1854, Miss Caroline Langdon Goddard, of Brookline, who survives him. Their elder son, William-Fletcher, born 21 February, 1855, a Harvard graduate of 1876, died in 1893, at his estate in Brookline. The younger, Charles-Goddard, a graduate of the Harvard Medical School in 1881, holds an office in Boston as Trustee of the family estate, and is now a member of this Society, having been elected last December to succeed his father, who became a member 8 February, 1893. This notice may fitly close with the following, taken from an Obituary published in the Boston Evening Transcript of 16 April, 1896: —

"William G. Weld died suddenly this forenoon at his residence, No. 6 Commonwealth Avenue. He had been suffering from a severe cold for some weeks, but nothing serious was expected from its effects. Yesterday he was at his business office as usual, and he enjoyed a social evening with his friends last night. This morning he did not feel so well as for the last few days, and for the first time a physician was summoned. Even at this stage no cause was felt for alarm; but an hour later, at eleven o'clock, he died of heart-failure. He retired from active business about twenty-five years ago, but has long been identified with many institutions, being one of the trustees of the Old Ladies' Home, a director of the Second National Bank, a member of The Colonial Society of Massachusetts, and he was also a director of the Butler Hospital for the Insane in Providence, R. I. Earlier in life he had been a director in various insurance companies, but had resigned from these offices many years ago. He has for years had his residence at Newport, R. I., but has passed his winters in this city. In a quiet way he has always contributed to charities, many institutions having been benefited through his generosity."



Martin Brimmer

MEMOIR

OF THE

HON. MARTIN BRIMMER, A.B.

BY

GEORGE SILSBEE HALE.

Martin Brimmer, born in Boston on the ninth of December, 1829, was the only child of Martin Brimmer, of Boston, and Harriet Wadsworth, of Geneseo, New York, and a descendant of Herman Brimmer, of Osten, near Hamburg in Germany. Martin, the son of Herman, born in Osten, came to New England about 1723. His oldest son, of the same name, died in 1739; and the second son, also named Martin, born in 1742, the grandfather of our associate, — who was thus the fifth of his name, — married Sarah Watson, of Plymouth. He was also a descendant of André Sigourney (Sejourné), born in France, who came to New England from Rochelle in 1686 as one of the French colonists of New Oxford, Massachusetts. André's son Andrew, also born in France, was the father of Susannah Sigourney, mother of the two brothers who bore the name of Martin Brimmer.

André Sigourney was a Huguenot; and Martin Brimmer, the immigrant, was a member of the Huguenot congregation which worshipped in School Street. He and others were naturalized by a Provincial Act of 1730–31,[1] and in his Petition[2] he described himself as "A Protestant German came from Hanover."

Those who loved and admired Martin Brimmer may find in this commingling of races a source of the rare combination of qualities which they trace in him. The quiet reserve and solidity of

[1] Province Laws, ii. 586.

[2] See a copy of this Petition, *ante*, pp. 241, 242.

his German ancestor were enlivened and made attractive by the gracious elegance of manner derived from his French descent. His Pilgrim origin disclosed itself in a New England conscience, tempered by a cheerful Huguenot faith. His gentle courtesy did not weaken his firmness, nor did his fidelity to his convictions in conduct or expression diminish their influence upon those with whom he might not agree.

His father, of the same name, was a successful merchant and useful citizen of Boston, who knew how to acquire and how to use wealth. He served his native city as Mayor for two years, in 1843 and 1844, and was interested in the cause of education, to which he contributed by his public service and private generosity. In Mayor Brimmer's Address to the City Council of 1843 the first subject to which he feels it his duty to draw their attention is the situation and construction of the County Prison; and in his remarks he comments upon the importance of classifying the prisoners: —

"The untried prisoner should be separated from the convict — the young should not be subject to the contamination of the old offender — and the poor debtor should be separated from both. Apartments entirely disconnected should be provided for females, and all intercourse of every kind with other prisoners be prevented."

The great objects of a prison, he says, are, "First, the safe keeping of the criminal; and second, as far as may be, his reform."

Referring to the Public Schools, he warmly declares: —

"Happy the people whose sons and whose daughters may be well instructed at the public charge; and happy, thrice happy, that community all of whose children shall receive a physical, moral, and religious education, to the glory of God and the service of the State."

In 1844 the Mayor urges —

"the importance of enlarged views in relation to the improvements of the city, in extending and beautifying our streets and public places, in a careful attention to internal health and police, in an enlarged system of internal and external intercourse, in a liberal encouragement of charitable and literary institutions, in a far-sighted preparation for the moral, literary, and physical education of the rising generation. We are to call to mind that, although our borders are narrow, we are the

centre of a dense and increasing population; that our city is the capital of an extended portion of our country, looking to our example to be imitated or shunned as our policy of municipal government shall be narrow or enlightened."

And after speaking of the early establishment of a free school, he adds: —

"It was ordered to be a 'free school'; it was maintained at the public expense, and it was to be 'for the town,' — that is, for *all* the inhabitants, — and it is hoped that these enlightened sentiments will prevail as long as this community shall exist."

These are now familiar and accepted thoughts; but it is pleasant to trace the inheritance which stimulated the interest of the son in the objects to which the father gave his enlightened efforts.

The son was educated principally by private instruction. His close intimacy with one of his tutors, Francis E. Parker, well remembered for his scholarship, wit, and remarkable judgment, sagacity, and ability, was continued during his life. Mr. Brimmer entered the Sophomore class at Harvard College in 1846, at the age of sixteen, and graduated in 1849 with Charles R. Codman, Horace Davis, Thornton K. Lothrop, Lemuel Shaw, our associates Charles F. Choate and the late James W. Austin, and others. In childhood, and also after his graduation, he spent some time in Europe, where he attended lectures at the Sorbonne, and returning in 1853, at the age of twenty-four, was elected a Trustee of the Boston Athenæum. Soon after, with a Director of the Emigrant Aid Society, of which he was subsequently a member and an officer, and, as a voluntary service, he visited Kansas to report upon the success of the work for which it was organized. He was interested not only in the cause of freedom, but in charities, public and private, as a State Trustee of the Massachusetts General Hospital, a Director of the Farm School, a Trustee of the Perkins Institution for the Blind, and a Director of the Provident Association; and for twenty-five years he was also President of the Boston Co-operative Building Association. In 1859–61 he was a member of the Massachusetts House of Representatives; in 1864, of the Senate; and in 1876 he cast his vote as a Presidential Elector for Rutherford B. Hayes. Interested in the higher politics, he once allowed his name to be used, in 1878, as a candidate for Congress, but he

had no appetite for political service. His health was delicate, and a slight but permanent lameness unfitted him for the active sports of youth, but did not deprive him of a natural and characteristic dignity of carriage. We find him, naturally, in the House for two years a member of the Committee on Public Charitable Institutions, and, in 1861, of that on Education; in the Senate, in 1864, of that on the Treasury, and Chairman of the Committees on Federal Relations and on the establishment of a Military Academy. One of his associates [1] in the House writes: —

"I cannot recall that he made any speech; if he spoke at all, it was but seldom; but what I do distinctly recall was his constant attendance upon the sessions of the House, and his close attention to its business. If the Journals of his years of membership are examined, I think his name will be found among the yeas or nays on every roll-call. There never could arise an occasion when he did not have the courage of his convictions. I think he did not know how to dodge. Just what his services were in connection with obtaining from the Commonwealth the grant of land for the Institute of Technology, I do not now remember; but ever since the session that granted the location his name has remained in my mind as one of a small band entitled to the credit of securing the enactment [2] that made the establishment of the Institute possible."

Mr. Brimmer represented Ward 6 in the City of Boston, and one of his associates tells me that a member who was called to account for changing his vote, after a statement by both of them, replied: "The Representatives from Ward 6 in Boston [naming them] are very different men from a great many members of this House. When they make a statement here, we know that they mean to state the exact truth."

He was an interesting example of that product of a fine intellectual soil which we attempt to describe as "culture," without pretence or assumption. With the Art Museum, of which he was the leading Founder and long a Trustee, he was identified by a service of nearly twenty-six years. It remains an outward and visible evidence and sign of that love and appreciation of Art which enabled him to assist so wisely in its foundation and permanent establishment. His long service in the management of Har-

[1] Mr. Thomas Hills.

[2] Acts of 1861, chap. 183.

vard College as an Overseer and a Fellow was his rich contribution to the cause of the higher education. The brief examples which he has left of his capacity for expressing the refined and cultivated taste and the wide information which illustrated and guided his efficient action, lead us to regret that he was not more abundant in such efforts. Mr. Brimmer delivered two admirable addresses upon the meaning, the conditions, and the mission of Art, — one at Wellesley College, 23 October, 1889, upon the opening of the Farnsworth Art School; one at Bowdoin College, 7 June, 1894, upon the opening of the Walker Art School, — inspiring text-books for their pupils, — full of a deep and delicate appreciation of the value and influence of Art, of its historical importance and significance, its elevation and power of elevation, its association with the higher ideals and nobler activities of nations, as "an expression of the hopes, the faith, the life of mankind." He asks, in the former:[1] "Why is it that we establish schools to teach the arts of design, and museums to illustrate them? What is the real significance of these arts?"

The lovers and the students of Art owe much to him for the manner in which, in answer to these questions, he shows its civilizing and educational influence, and makes its study attractive, like "divine philosophy," and not a mere fancy "engendered in the eyes." "And when," he says, —

"led on from one great work to another, we begin to discover their relation to each other and to the life in the midst of which they were produced, then the narrow bounds we have set up fall away, and a wide horizon opens around us on every side. We see that style and execution and design are but the foreground of the scene before us, are but the way through which the mental vision reaches out to great ends. We see that Art, in its widest and truest sense, is not mere luxury or decoration, but an expression of the hopes, the faith, the life of mankind. Through visible images our eyes penetrate to the inner thoughts of men of distant races and remote periods. We contemplate the ideas that filled their minds, the feelings that impelled them, the aspirations in which they found support. We trace the instincts of race, the rise and fall of national spirit, the growth and decay of religions that have passed away. We behold the ideals of beauty in every age and nation as they came forth from the hand of those men who expressed them best. We follow the contending influences which led men now this

[1] Page 2.

way, now that, and we mark the impress which the man of genius stamped upon his time. The merest glance over the field is enough to assure us that the end of the study of Art is the knowledge of humanity itself on a side not less instructive or inspiring than we find in the study of literature or of history."[1]

It is interesting to observe how he connects with his love of Art and its work his interest in his country and his countrymen. When he speaks of the triumph of Art in the White City of Chicago, he says, in the address at Bowdoin College, —

"The architects had discerned a great guiding method of monumental art, which had indeed already governed the design of noble works of other days: unity in conception, freedom in adaptation, variety in execution. They had rejected competition. They had avoided the dividing and distracting effect of giving a free hand to individual taste. They had recognized that great purposes are accomplished through the concentration and harmony of competent minds, through the curbing of personal ambitions for the attainment of a common end, through the restraint of emulation within limits prescribed by the common weal. How easily could they have spoiled the result by using other means! How fortunate it would be for any large undertaking, even for the government of a nation, if it were guided by a like principle. In fact, it may be conceived that, if we could apply these springs and rules of action to our own national affairs, we might, perhaps, be even better governed than we are now."[2]

And again, in the Address at Wellesley College: —

"Then, remembering that art can have influence only on those who have some opportunity to enjoy it, we may find reason to hope for the broadening of that influence in the fact that the great body of working-people are, on the whole, acquiring a greater command of their time. By a process which has been going on for more than a century, the advance of machinery has steadily tended to reduce the hours of daily labor; and that leisure which the Athenians gained by getting their work done by slaves, which the Florentines gained by getting their battles fought by mercenaries, our age is conquering by a nobler and surer process."[3]

Mr. Brimmer's sketch of the History of the Religion and Art of Ancient Egypt, and of the effect of physical and local causes upon

[1] Page 3. [2] Page 23. [3] Page 27.

its form and manifestations, and of its elevated religious elements, is of great and permanent interest and value, and characteristic of the writer. He detects the soul of goodness in its form and the dignity and grandeur of its expression, without ignoring its limits and defects. I venture to quote some passages from his selection of the moral precepts of its teachers, as not inappropriate in its description of what he was and what he liked: —

"The Sage warns his pupils against contentious discussions and against repeating unguarded language. 'Do not repeat an excess of language; do not listen to it; it is something which has escaped from the heat of the soul.' 'If thou desirest that thy conduct should be good and free from all evil, avoid bad temper. It is a pernicious malady which leads to discord. . . . When a man has taken Justice for his basis, walks in its ways and dwells therein, there is no place in him for ill humor.' Activity, contentment, and cheerfulness are dwelt upon as virtues: 'Be active and diligent through your life, doing more than is required, but see that you do no wrong in your activity. He brings misfortune in his house, he who has a heart without energy. Let your face be light with cheerfulness during the days of your life.'"

Such was the ideal which he realized.

Mr. Brimmer had many appreciative friends. All who knew him were his friends, but some "touched to finer issues" saw more clearly than others the qualities which revealed themselves "in his happier hour of social pleasure." One of these whom he in like manner appreciated and enjoyed permits me to add to the interest of this paper and to my own imperfect description the impression derived from an intimacy of many years: —

"In trying to put together, as I promised you, some recollections of Mr. Brimmer, I not only feel myself overwhelmed by a flood of memories, reaching back for more than thirty years, but also fully realize how difficult it is to give you an intimate impression of one whose principal characteristics were so balanced and harmonious as his.

"Striking contrasts in character, dramatic incidents in conduct, and those changing phases of light and shadow which are supposed to add interest to the portraiture of most men, found no part in the equilibrium of that rare personality as I knew it first, when, just returned from foreign travel, I met Mr. Brimmer in the drawing-rooms of Boston. He was scarcely thirty; but his classic face, his distinguished bearing, and those extraneous advantages which belong to large wealth and an old

and honored name had already given him that air of prestige which Boston never afterwards failed to recognize as his rightful patrimony. And if with all this a something of coldness and reserve, and a seriousness scarcely youthful, seemed to the casual observer to cling a little too closely to the dignity of his manner, the impression was quickly dispelled, on a nearer approach, by the beauty of a voice and a smile of which I have rarely ever found the counterpart.

"With his marriage to a dear friend my friendship with Mr. Brimmer soon deepened into intimacy; and as my mind goes back to those early days, what memories I recall of that delightful time! Once more I am seated at the ever-hospitable board on Beacon Street, with the bright circle that was wont to gather there, or on the piazzas at Beverly, and among the ferns and rocks and pine-needles of Witch Wood, we once more talk with youthful freshness of all that most interests our minds or is dearest to our hearts! At Beverly, as in Boston, rare spirits would often gather, — Tom Appleton, Frank Parkman, William Hunt, Frank Parker, and others; and *le causeur des Lundis*, Sainte-Beuve himself, might sometimes have envied those long, inspiring talks, with the pine-trees whispering overhead and the surge of the summer sea not far away! And then in the autumn evenings what moments were those when Mr. Brimmer would read aloud, to a chosen few, some page from Shakespeare, or Dante, or Sainte-Beuve, or Musset, his beautiful voice and rhythmical cadence adding a musical charm to the 'winged words'! This reminds me of our long dispute — the only one — over Music itself, Mr. Brimmer declaring that he was indifferent to it; in fact, he would laughingly add, 'it almost amounts at times to a dislike,' — I always contending that the rhythm and the cadence of his reading disproved his statement. Years afterward, when he confessed his delight in Wagner, and I instantly proclaimed my victory in our long dispute, he answered that the trouble had not been with his musical taste, but with the inferiority of all musical composition up to Wagner's time!

"Mr. Brimmer's early years had been passed in France, and that, together with his Huguenot blood, had given him a certain predilection *pour le pays du beau langage*, and for its art and its literature. But with it all he was truly an American, believing firmly in the institutions of his native land and in the great future that awaited her. It was indeed a rebuke to one's doubts to hear him talk of America and of the men who had helped to make her what she was and what she promised to become. He had a great admiration for Abraham Lincoln, and was among the first to place him by the side of Washington in the gallery of our great men, where, since that time, the world has for the most part conceded that he belongs.

"In the summer of 1861 I went abroad, where I remained until 1869. On my return I found the same hospitality, the same warmth of welcome, whether in Boston or at Beverly. That brilliant hospitality! those faithful friends! the bright talks, the *bons mots*, all sparkling and fresh as ever! In the eventful years of my absence, Mr. Brimmer had become a potent influence in Boston that was felt through all her councils, whether of art or of learning, in political or national affairs. At Harvard, and later on at the Art Museum, his opinion was an authority rarely ever differed from; while his occasional addresses at Bowdoin and elsewhere showed the depth of a culture and the ringing notes of an eloquence which made one deeply grieved for its loss in the councils of the Nation.

"And then his courageous cheerfulness! In the most depressing moments of the past and the present, after the defeat of Bull Run, or with the discouragements of later years, Mr. Brimmer still retained his faith in his country and her institutions, always contending that the threatening moments were but passing clouds, — that our institutions were strong enough to stand them, that Civil Service rules and a more enlightened public opinion would bring us through; and, in reply to some pessimistic word which perhaps might betray the longing for a return to older forms of government, he would sometimes ask if the perplexities that were facing the monarchies of Europe were less serious and less threatening than our own.

"The wide range of his interests was backed by a princely liberality; and if ever a man possessed true sanity of mind, with a deep sense of the proportion of things and of the *juste milieu*, that man was Martin Brimmer. His wisdom seemed to be his most prominent characteristic, — wisdom linked to a temperament that may be truly called faultless, for I think I may safely say that no one ever saw the serenity of that temperament ruffled. Such was my experience in the intimate relation of nearly forty years; such was the experience of those who knew him longer and better than I did. Nor do I feel that I have done full justice to that serenity without telling you what I think was its most remarkable feature. Other men have been strong and calm, but it was the calmness of great self-control; with Mr. Brimmer it was not that, but in its place a cloudless serenity, apparently as unconscious as the mellow light of an autumn day.

"In this rare combination of qualities lay the secret of Mr. Brimmer's influence, — an influence that followed him into every circle that he entered, whether public or private; and even in these enfranchised days, when the voice of authority seems dead, Mr. Brimmer's voice was listened to and his opinions accepted as no one's else I have ever known.

And yet I greatly doubt if he ever willingly proffered his advice to any one; but with what modesty, what diffidence it was given when asked for! — and asked for it was by the highest and the humblest, each one feeling that they had in him a friend. Truly *le monde est aux gens calmes!*

"From youth Mr. Brimmer's health, if not delicate, was never vigorous; and as the stress of life increased with years, those nearest him often felt that, with the unceasing calls upon him and his conscientious discharge of them, the sword was rapidly wearing out the scabbard. A severe fall on the pavement one wintry night, as he was returning from a meeting of citizens on the death of Phillips Brooks, gave the last blow to his already declining health. He lay senseless for hours, and although he seemed later to return to his usual activity, yet he never afterwards regained his former strength. As I sat by his coffin on that last sad day in Trinity Church, and looked back on his past, — that unselfish past, — I could not but feel that the old Adam with which so many of us have to struggle had long since died in him, and that while he had shared the common lot of trial and suffering, his inner life had been all Beauty and Peace!"

For myself, I knew Mr. Brimmer so long and so well that I am most glad to pay this tribute to his memory, and yet not so well that I am able to speak as his intimate friend. Possibly for this reason, I may be able to measure the proportions of his character better than those who "saw him upon nearer view," for he was a man of even traits and fine proportions. Lord Mahon says: —

"It has been justly remarked that of General Washington there are fewer anecdotes to tell than, perhaps, of any other great man on record. So equally framed were the features of his mind, so harmonious all its proportions, that no one quality rose salient above the rest. There were none of those chequered hues, none of those warring emotions, in which biography delights."

As the observer sometimes fails to appreciate the size of a statue or a noble structure because all its parts are so well adapted to one another, so we sometimes do not fitly measure a noble life or character because we do not find one feature more conspicuous than another. In Johnsonian phrase, 'Because we miss the nodosity of a Hercules, we do not see the vigor of an Apollo.'

Mr. Brimmer was calm but determined, gracious and dignified, and courteous without any want of firmness. He saw the right,

and approved it and followed it. He did not need to carry about a lantern to find or to show a true man. We all saw such a man wherever he went. His personal presence and aspect made his way among men easy and winning, since he had that —

> "Sweet, attractive kinde of grace,
> A full assurance given by lookes,
> Continuall comfort in a face,
> The lineaments of Gospell bookes."

Of his intellectual character, "the constituent and fundamental principle was good sense, a prompt and intuitive perception of consonance and propriety." For those who knew him best and most closely shared his work for the community he cannot be replaced.

Many, indeed, whom he served in his efforts to elevate their lives and to lift them into an atmosphere of cultured refinement, may not have known their debt to him. It is for us who did know it to recognize and acknowledge it, and to preserve the record of that acknowledgment.

It was impossible not to like him, not to respect him, and not to confide in him. His interest in any good cause was steady and unremitting. Liberal as he was, wealth was his least valuable contribution to the community which he served and adorned, although it illustrated and facilitated his efforts to make himself useful and the world better for his having lived in it.

> "Loke who that is most vertuous alway,
> Prive and apert, and most entendeth ay
> To do the gentil dedes that he can,
> And take him for the gretest gentilman."

Mr. Brimmer became a member of this Society 18 January, 1893. He died at his residence in Boston on the fourteenth day of January, 1896.

Numerous appreciative and discriminating tributes were paid to his memory by his associates of the various organizations in which he had served the public.

He was the last representative of a name honored for more than a century in his native city, which began with Martin Brimmer, the "Protestant German came from Hanover," and has left to us dear and grateful memories and the undying influence of noble lives.

MEMOIR

OF

EDWARD WIGGLESWORTH, M. D.

BY

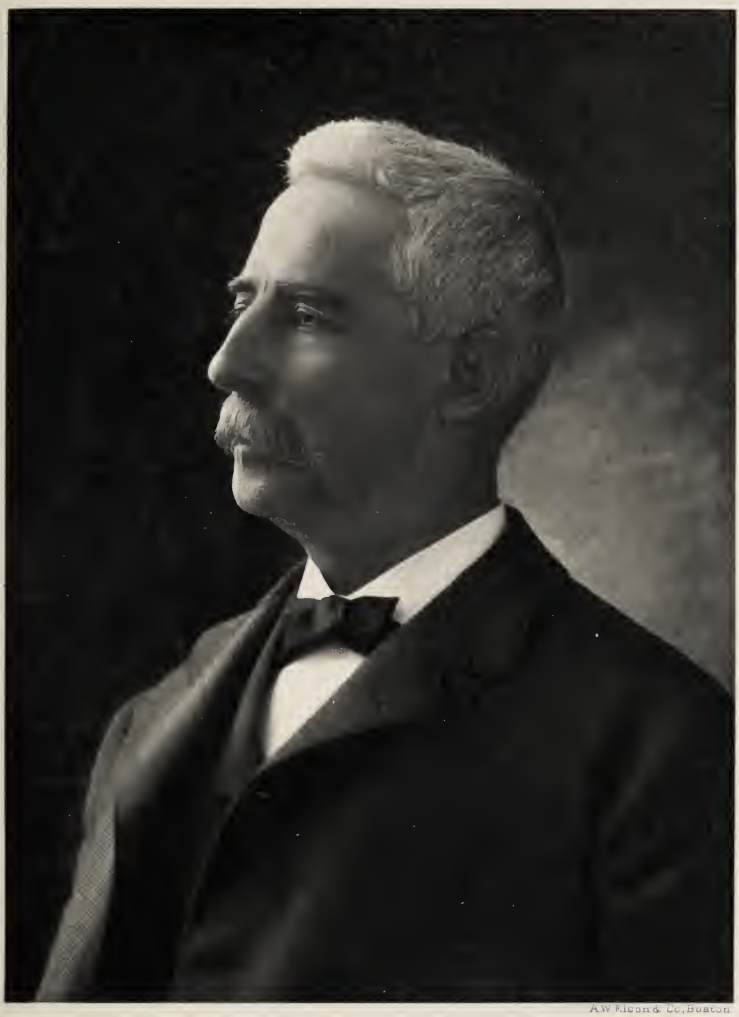
HENRY PARKER QUINCY.

DR. EDWARD WIGGLESWORTH died in Boston 23 January, 1896. He was born at No. 4 Franklin Place, Boston, 30 December, 1840. He went first to Miss Whitney's school,[1] then to the Chauncy Hall School, and finally to the Boston Latin School. He graduated at Harvard in the Class of 1861, of the sixth generation of Harvard graduates of the family of which he was a descendant, he being the fourth Edward Wigglesworth in this line of graduates. His descent was direct from Edward Wigglesworth, who was born in England, and came from Yorkshire to this country in 1638.[2]

Dr. Wigglesworth graduated from the Harvard Medical School in 1865. During his connection with the School he entered the army, enlisting as a private in 1862 in a nine-months regiment. Subsequently, on account of his having studied at the Medical School for a year, he was made hospital steward, and later, during the war, he went as a surgeon at the time when volunteer surgeons were called for, and served his country with untiring devotion and constant self-sacrifice. The next five years he spent in Europe studying, in Vienna, in Paris, and in London, his chosen specialty, Dermatology. He made a collection of the best and rarest books, the most perfect models and costly means of illustrating this subject. He presented his models to the Harvard Medical School;

[1] Miss Susan Whitney died at Taunton, Massachusetts, 16 November, 1880, aged 80 years. Her school for boys and girls, in Boston, was kept in the basement of the First Church, in Chauncy Place.

[2] The line of descent from the emigrant ancestor was through the Rev. Michael (H. C. 1651), Prof. Edward (H. C. 1710), Prof. Edward (H. C. 1749), Thomas (H. C. 1793), and Edward (H. C. 1822), — the father of our late associate.



A.W. Elson & Co., Boston

Edward Wigglesworth

Engraved for The Colonial Society of Massachusetts
from a photograph from life

and his library was always at the service of any one interested in Dermatology. On his return to this country, in the early seventies, there were but few exclusive practitioners in this branch of medical practice. Feeling that Dermatology ought to be more widely recognized, he established a dispensary of his own for diseases of the skin, which he carried on, regardless of time and expense, until successful departments for the treatment of this class of diseases had been founded in the public institutions of Boston, and he was appointed head of the Department for Diseases of the Skin at the Boston City Hospital, — a position which he held to the day of his death. He was one of the instructors of the Harvard Medical School for several years, impressing the students with his painstaking earnestness, and instilling into their minds the absolute necessity of attention to details for the successful treatment of the complicated diseases of the skin.

During these incessant and arduous labors, Dr. Wigglesworth was a frequent contributor to medical literature. He read a paper on Alopecia before the Massachusetts Medical Society in 1871, and contributed to the Archives of Dermatology, of which he was a founder, papers on Fibroma of the Skin, and on Sarcomata of the Skin, in 1875, and on Auto-inoculation of Vegetable Parasites, and on New Formations, in 1878. In the same year he also wrote on Faulty Innervation as a Factor in Skin Diseases, in the New York Hospital Gazette. In 1882, in conjunction with Dr. E. W. Cushing, he published in the Archives of Dermatology a paper on Buccal Ulcerations of Constitutional Origin. In 1883 a communication of his on Purpura from Quinine was published in the Boston Medical and Surgical Journal; and in 1886 he delivered the Annual Address before the American Dermatological Association.

During this time of continuous productive activity there was little medical work of general public importance to this community in which Dr. Wigglesworth was not a participant. His enthusiastic labors in behalf of the Metric System are well known. He was one of the executive committee of the Boston Medical Library Association from its beginning, and did much towards its establishment. He was one of the committee to raise the large sum of money necessary to establish the Harvard Medical School in its present admirable building. "He was very active in the early

attempts at securing the registration of physicians, that the citizens of the State might be protected against quackery and extortion." As a member of the Health Department of the American Social Science Association, he spent years of faithful and persistent effort in promoting its unselfish objects. He never cared for general society, and was very seldom seen in it, so that he was not personally known to a large circle of acquaintances. He did not put himself forward, but was always retiring. Although not appearing to notice what was passing about him, very little escaped his observation. He was imaginative and of a nervous temperament, and took the keenest interest in his work for the public good, which he pursued with untiring energy. Of all shams or frauds of any description he was uncompromising in his condemnation. At the same time he was willing to hear both sides of a question, and showed himself always fair in his treatment of those who were opposed to him, if he thought they were honest in their convictions.

Having ample means of his own, and being able to lead a life of leisure, had he wished it, Dr. Wigglesworth chose rather a career of great activity and incessant labor for the good of others. No one will ever know the amount and extent of his charities. I have no doubt that many discovered only after his death by whom they had been helped.

There was no man more entertaining and agreeable as a companion at dinner, particularly with his intimates, among whom he felt no restraint, and could give free rein to his wit and humor.

He married, 4 April, 1882, Mrs. Sarah Willard Frothingham, and had three children. The eldest, Mary, died in her second year. Two are living, Henrietta-Goddard and Edward.

He was enrolled a member of this Society 20 March, 1893, and when his engagements permitted, showed his interest in our purposes by his attendance at our meetings.

John T. Andrew,

MEMOIR

OF THE

HON. JOHN FORRESTER ANDREW, LL.B.

BY

EDMUND MARCH WHEELWRIGHT.

John Forrester Andrew was born in Hingham, Massachusetts, 26 November, 1850. His first emigrant ancestor on the paternal side was Robert Andrew of Boxford, County of Suffolk, England, who settled in Rowley in 1656. His great-grandfather, John Andrew, was in early life a silversmith, and afterwards a successful merchant of Salem; late in life he moved to Windham, a small town near Portland, Maine, where he died. His son Jonathan was born in Salem where he lived until manhood, when he too went to Windham and kept there a country store. In this business he was successful, and he was an influential citizen. He married Nancy Green Pierce, who was a teacher in the academy at Fryeburg. Upon his wife's death, he sold his property in Windham and removed to a farm in Boxford, Massachusetts. John Albion Andrew, his eldest son, born in Windham, was graduated from Bowdoin College in 1837. He married Eliza Jones, daughter of Charles and Eliza (Jones) Hersey of Hingham. His career as a reformer, statesman, and "War Governor" of Massachusetts needs no rehearsal here. The estimate made of Governor Andrew's character by Mr. Parke Godwin, in a Memorial Address, shows the source of leading characteristics in his son. The father's moral qualities were the son's evident inheritance.[1]

John Forrester Andrew was a pupil at the Phillips Grammar School, Boston, and fitted for college at a Boston private school. He was graduated from Harvard College in 1872. In college, he was a fair student but not greatly devoted to his books, neither

[1] John Forrester Andrew was descended from the Higginson, Pickering, Grafton, Otis, Cushing, and other prominent New England families.

was he very prominent in the general college life. His frank nature, quiet wit, pleasant manners, and good fellowship, however, won him general regard. After graduation, he passed a year travelling in Europe, and on his return entered the Harvard Law School, where he was graduated in 1875. He was for one year a law student in the office of Brooks, Ball, and Storey, and the intimacy there formed with Mr. Moorfield Storey had no little influence upon his later political career. 1 September, 1876, he began the practice of his profession, and was associated then, as he was throughout his life, with Mr. Albert Boyd Otis, who had been connected with Governor Andrew in his law practice.

In 1880, Andrew was elected as a Republican Representative to the Legislature from the Ninth Ward of Boston. As a member of the Republican party he served three successive terms in the House of Representatives, and one term as State Senator. He was elected to this last office by the largest majority ever received by any candidate in the district. As Senator, and when in full standing as a Republican, his personal independence and his contempt for partisan legislation were shown by his votes against the Aldermanic District and the Metropolitan Police Bills. He had voted as Representative to abolish the poll tax as a prerequisite for voting. At that time it required no little strength of conviction to vote in this manner, although few are found to-day who do not see the wisdom of abolishing that source of political corruption. He was a member of the Judiciary Committee of both branches of the Legislature, a member of the Committee on the Revision of the Statutes in 1881, a member of the Committee on Expediting Business in 1882, and a member of the Committee on Bills in the Third Reading and Election Laws during his term of service, and also Chairman of the Committee on Street Railways. He introduced the bill establishing a Civil Service Commission while Senator in 1884, by which the partisan use of public office has been to some extent checked in this State. In the same year he made the motion to abolish the custom of preaching the Election Sermon, which was favorably acted upon by the Legislature. In order to divorce the Church and State still further, he introduced a bill to repeal the law providing that an atheist's disbelief in God shall affect his credibility as a witness, and he also presented a petition to repeal the law exempting Church property from taxation.

In spite of the independence he had shown in the General Court, Andrew was sent as a delegate to the National Republican Convention at Chicago. He was one of the small group who strenuously sought to prevent the nomination of Blaine. I met him shortly after his return from Chicago. He was quiet and uncommunicative. His willingness to express his own views was obviously controlled by his sense of formal responsibility to his constituents. He assured me, however, that he would not support Blaine. Not long after this he had thrown aside the fiction that the caucus binds its members, a belief which could not long have held at such a juncture a man of his character, and he enthusiastically joined the Independent movement. His first public announcement of this step was made in an interview published 18 July in which he said: —

"There is to-day no great issue between the two great political parties. The main questions, in which everybody is interested, are reform of the Civil Service, reform of the Tariff, and reform in the Currency, and I regard any one of them as safe in the hands of the Democratic as of the Republican party. I do not believe that under the present leaders, the Republican party can stand for the principles of honesty, progress, and reform upon which the party was originally founded. As at present constituted it simply presents an organization struggling to perpetuate its own existence. It seems to me that the country would be safer under the Governor of New York than it would be under Mr. Blaine. Without considering any of the rumors as to Mr. Blaine's personal character, a recent utterance of his in relation to the distribution of the surplus revenue, a proposition outrageous as well as unconstitutional, shows that he is not fit to hold the office which he seeks."

No Massachusetts man in this movement sacrificed for the sake of his conscience a more immediate opportunity for political advancement than did Andrew. He had been suggested as the probable Congressional candidate of the Republican party in his district; indeed, when assured by a leading Republican politician soon after Blaine's nomination that if he would support the party ticket he could without doubt receive the Republican nomination in the Fifth District, he replied, "I should very much like to go to Congress, but I can't afford to pay that price for it." As with

his father, "politics with him was a science of truth," and "his sincerity always identified him with his cause."[1] Andrew's cause was not that of his own personal preferment. He held other issues to be of minor importance in comparison with sustaining high ideals of public life as the basis of all that is worth fighting for in our political institutions. Andrew was chosen President of the Young Men's Republican and Independent Club of Boston, an organization which performed the duties of a City Committee.[2] To his energy, acuteness, and ability was due not a little of the success which attended the labors of that body.

When Carl Schurz made his memorable speech of 22 October, 1884, in Tremont Temple, Andrew was one of the speakers in the adjoining Meionaon. A part of his speech was as follows: —

"For myself I have never voted anything but the Republican ticket, and in that I differ from many of the Republican advocates in this State; but if I live until the fourth day of November next, I shall cast my first vote for a Democratic President, and vote for Grover Cleveland of New York, for I believe that he has shown, in the important public offices in which he has been placed, that he can be an honest, able, and fearless executive officer, while the Republicans, in choosing a candidate twice rejected on account of his damaged political character, have disgraced their party and insulted the integrity of the American people. It is not an agreeable thing to leave the party in which you have been born and in which you hoped always to live, but when the question comes between mere party success and the existence of honest government, then every true citizen will stand by his country and let his party look to itself."

Andrew was nominated in 1884 for the State Senate by a non-partisan Address indorsed by the Democrats. His refusal to support the Republican candidate for President had excited much bitterly partisan comment in the Republican press, yet in spite of such opposition he was elected by 1400 majority in a district which

[1] Memorial address on Governor John A. Andrew, by Parke Godwin.

[2] The Officers of the Young Men's Republican and Independent Club of Boston were as follows: —

President, John F. Andrew; *Vice-Presidents*, Roger Wolcott, Francis Leeds, Henry W. Putnam, Lewis R. Tucker, and Henry H. Edes; *Secretary*, John T. Wheelwright; *Assistant-Secretary*, Francis C. Lowell; *Treasurer*, Arthur L. Woodman.

only a Republican had previously represented. He had been previously urged to accept an Independent nomination as candidate for Congress against Edward D. Hayden, but he replied that he was "interested in defeating a corrupt candidate for the Presidency, not in opposing a good man for Congress." He early began his championship of a sound currency resting upon a gold basis when in the State Senate of 1885 he offered a resolution, which was defeated, encouraging the Massachusetts representatives in Congress to advocate the passage of the necessary laws to prevent the free coinage of silver under the Bland Act.

In 1885, Andrew was a member of the Municipal Reform Association, by whose endeavors the Boston City Charter was revised and all executive powers taken from the City Council and given to the Mayor. In 1884, he had introduced in the Senate a bill providing that, in cities of a population greater than 75,000, department officers should be appointed by the Mayor and Aldermen without any reference to boards of Councilmen. This anticipated in part the Revised Charter legislation of 1885, which was framed to prevent the mischievous interference with executive business by Committees of the Boston City Council.

In 1886, Mr. Andrew was invited by the Democratic State Committee to be their candidate for Governor. He at first refused to consider the proposition, but when the invitation was renewed, he referred the committee to Mr. Moorfield Storey, with whom he had in the meantime consulted. The result of this conference was that he consented to be the candidate of the Democratic party for Governor upon condition that the party platform should indorse, in an unqualified manner and to his satisfaction, reform of the Civil Service and the Tariff. This agreement was made, and he was nominated as the Democratic candidate for Governor upon a platform thoroughly satisfactory to the Independents, even if it was accepted with hesitation by many of the Democratic politicians. The result of the canvass was a surprise even to many of the tariff reformers. This was the first time the Tariff Reform issue had been pressed as a demand for free raw materials anywhere in the country, and the first time such an issue in the Bay State had been made the particular object of concerted political action by men of standing, education, and property. Andrew ran many thousand votes ahead of the general Democratic ticket, and was defeated by

a plurality of but 9,500, Robinson, the Republican candidate of the previous year, having been elected by 22,000 plurality.

The principal work of this campaign, as far as the canvass for the head of the ticket was concerned, fell upon a volunteer Independent Committee. The campaign was somewhat advanced when at a meeting of this Committee certain members reported that many Republicans, dissatisfied with the nominee of their party for the Governorship, would probably support Andrew if the Tariff issue were not so vigorously pressed. Andrew's closest friends upon the Committee strenuously opposed such a change of attitude, taking the ground that much as they wished Andrew's success, their object was not to advance his political career except as an incident to the cause of which he was the standard bearer. They declared that if the Committee should take a less positive stand on the Tariff question, they would do no further work in the canvass. The vote was not pressed. Andrew was perfectly contented with the position of his friends, which had been taken without consulting him. The following quotation from Andrew's letter of acceptance of the Democratic nomination for Governor epitomizes his opinions on the questions of the day: —

"The intelligence of the Nation, irrespective of political parties, heartily supports the earnest efforts of President Cleveland to divorce the Civil Service from politics; to reduce the Tariff to the requirements of times of peace; to lessen the burden of taxation; and to prevent the coinage of a debased currency. These are the principles for which we contend, and Massachusetts, foremost in all reforms, is sure to give them her cordial support."

An incident of this campaign which had an important effect upon Andrew's later political career was the formation of an active Tariff Reform Association in the Third Congressional District. This organization conducted an aggressive Free Raw Material campaign against the re-election to Congress of Ambrose A. Ranney. Leopold Morse, the Democratic nominee, indorsed by the Independents, was elected by a plurality of 1818.[1]

[1] Andrew had early been urged by the Tariff Reformers to accept the Congressional nomination, but it was decided by him and those whom he consulted that the general cause could be pushed more advantageously if he were the candidate for the Governorship on a platform supporting the reforms which he especially sought to advance.

The Third District organization was of the most informal character, but it was made up of active men of strong convictions. This organization played an important part in the politics of this State until the re-districting of 1892 threw its members into three different Congressional districts.

In 1887, it was evident that there was much discontent with Cleveland's administration among certain leaders of his party, and that the State Convention would take an antagonistic position in regard to Civil Service Reform and the Administration. Andrew therefore declined to be a candidate for a second nomination for Governor.[1] Like most Independents, he took no active part in the contest between Ames and Lovering.

In 1888, Andrew was the Democratic candidate for Congress in the Third District. His opponent was Alanson W. Beard. The canvass was very hot. Andrew and his supporters felt that the indirect effect of the work done in this important city District would be influential in forming an amalgamated Democratic and Independent party in the State. Never before was the idea of broadside advertisement in the daily papers, especially in those of the opposite party, carried so far. These broadsides were not merely campaign reviews of the qualities that made Andrew a desirable candidate, but carefully prepared explanations of the principles which the candidate supported were thus published in easily-read type. Thousand of circulars were sent through the mails. Many canvassers and workers at the polls were employed on election day, but further than this a very large, if not an equal number of volunteer workers, men of standing in the community, and fully inspired by the principles that led their candidate, labored assiduously before and on election day for the success of the ticket. The result was a great surprise to the Republicans. The one bright spot for the Independents of Massachusetts in the contest of 1888 was the election of Andrew to Congress.

Andrew's position on the tariff question is well stated in the

[1] During his absence in Europe in the summer of this year he was mentioned as the probable Democratic candidate, and as he had authorized Mr. Moorfield Storey to decline for him in case his nomination was seriously considered, Mr. Storey did so in an open letter to Hon. P. A. Collins, then the Chairman of the Democratic State Committee.

following extract from a speech delivered in this campaign at a rally in Tremont Temple, 27 October, 1888: —

"That we have an issue to-day is due to the courage of our patriotic President. The great question is the revision of the Tariff and the reduction of the revenue. It is estimated that $110,000,000 will be taken the coming year by taxation from the earnings of the people, not one dollar of which is required for expenses of the government, but it is collected solely for the purpose of making a few rich monopolists richer. This great revenue was needed in the time of war, but it is an outrage in the time of peace. The new Republican party of to-day, which found it necessary to admit that it sympathized with morality, declares that rather than touch the present Tariff it would repeal the entire revenue tax, including the tax on whiskey and tobacco. We believe in helping the people to more employment, rather than to more whiskey; to cheaper food rather than to cheaper tobacco. If there is any advantage from the Tariff the employer gets it, and not the workingman. Inventive skill, education, the hopeful ambition of our workingmen, and the general diffusion of intelligence, make American labor the most valuable on earth, while the vast area of fertile lands inviting every kind of productive activity increases our prosperity. People who once stood for human freedom at whatever cost of life or treasure, simply because it was right, will ever stand for freedom from unjust extortions of monopolists and the denial to man of his rightful opportunities. The intelligence and conscience of the country won a victory twenty-five years ago; they will again speak for freedom and equality in November next."

Before passing to an account of Andrew's services during his first term in Congress, mention should be made of those as Park Commissioner of Boston, to which office he was first appointed 11 May, 1885. In February, 1886, Andrew was reappointed and confirmed for the term of three years from 1 May of that year. He served out the term and held over until his successor, Col. Thomas L. Livermore, was confirmed, 13 May, 1889, Andrew having been elected to Congress at the previous election. When Andrew first entered on the duties of this office, the project of establishing a system of Parks for Boston had scarcely passed beyond the initial stage. The sites of six Parks had been secured, but their construction had barely begun, except in the case of that called the Back Bay Fens, which was about half finished. Not only had little

been done, but there was small prospect of doing more. The Legislature had established a tax rate and debt limit which left but slight opportunities for securing money to extend the system or to improve the ground already obtained. The work would have suffered accordingly had not the Commission inaugurated the policy of carrying it on by long term loans outside of the debt limit. This measure, which was ably advocated and successfully carried out by the Board, and in which Andrew took an active part, has been chiefly instrumental in developing the Park System in a progressive and comprehensive manner. The extension of the Marine Park over tide-water lands belonging to the Commonwealth was secured, and the addition of Castle Island, belonging to the United States, was successfully advocated by Mr. Andrew and Joseph H. O'Neil. Plans for connecting the Marine Park with the city were adopted, and funds for this purpose and for extending the main Park System from the Fens to Jamaica Pond were obtained.

In the Fifty-first Congress Andrew soon won for himself an influential position by his nice tact, his sincerity, and his knowledge of men and public affairs. Although no orator, he became one of the recognized leaders of the honest-money Democrats in the House. Through the efforts of those Republicans and Democrats who believed in sound money, united up to this time, the passage of the bill for the absolute free coinage of silver at a ratio of 16 to 1 was prevented. Andrew and his honest-money Democratic colleagues voted against all silver legislation, and if the ten Republican Congressmen from Massachusetts had voted with equal steadiness the Sherman Silver Purchase Act would never have been passed. The first Silver Bill, the so-called Conger Bill, which passed the House where there was a Republican majority, was the basis of the Act of 14 July, 1890, — the Sherman Act. The Conger Bill had so small a majority that a change of ten votes would have prevented its passage. In speaking of this contest, Andrew told me that he had learned from the highest Republican authority that the sound-money men of the Republican party considered it necessary to vote for the Sherman Act, as it was feared that if this compromise were not accepted a free silver coinage bill might pass, as President Harrison would give no assurance that he would veto such a measure.

In the autumn of 1891, in an interview on the currency question, Andrew said: —

"There never was a particle of danger of the passage of a free coinage bill except from the Republican side of the House. The Republicans were making their bid for the votes of the new silver-mining States in the Presidential election of 1892. . . . When Speaker Reed was convinced that the Eastern Democrats meant to vote their convictions without scheming to embarrass the President, he allowed the question [of silver coinage] to come to a vote. He would not permit it to come to a vote a minute sooner, and he felt a deal of hesitation up to the last moment, because he suspected us of acting from the same petty motives which governed the members of his own party. . . . The Eastern Democrats did not want free coinage, and they did not want silver inflation; they voted against it at the expense of enabling Mr. Reed to claim for his party, as he and his friends are claiming, the credit of having defeated free coinage. They did not initiate any of the legislation of the last Congress, and they never initiated a free coinage bill as a party measure or a measure of the Committee on Coinage while a Democratic Speaker sat in the chair, which was no sooner occupied by a Republican Speaker than silver inflation was adopted as the financial policy of the country."

Andrew spoke and voted against the McKinley Bill. In his speech of 10 May, 1890, he said: —

"Mr. Chairman, the Committee reporting the Bill say, 'We have not been so much concerned about the price of articles we consume as we have been to encourage a system of home production.' That they have not concerned themselves about the consumption is apparent to any one, but under what principle of political economy they propose increasing the taxes upon established industries when the Government is not in need of additional revenue can be apparent to no one. One thing especially conspicuous in the bill is the marked success with which it absolutely ignores the interests of New England. That section of the country demands lower taxes upon the necessaries of life and cheaper raw materials to benefit their manufactures and give employment to their people. Instead of that they are offered, not only higher duties, but articles which have been free are now made to pay a duty. What New England wants the most has been denied her, and what she wants the least has been forced upon her. The duties upon wool have been increased in spite of petitions from many of the largest manufacturers and dealers in wool, praying that wool may be free. Twenty-two years

of high duties upon wool have failed to benefit the wool growers or the manufacturers, or to increase the wages of the operatives. Every country where wool manufactures come into competition with ours has the advantage of free wool.

"That any one should seriously contemplate increasing the duty upon carpet wools seems incredible, yet this bill raises the duty 40 and even 60 per cent. No duty, no matter how high, can cause carpet wool to be produced in the United States; even on lands of Texas that cost nothing, it cannot be produced at a profit."

He then proceeded to show how the iron industries of New England were adversely affected by duties upon iron ore, coal, and coke, and he presented a petition signed by 598 proprietors and managers of ironworking establishments, asking that these materials should be placed upon the free list, and that the duty on pig iron and scrap iron and steel should be restored to that which prevailed immediately before the war. He further said: —

"When we see the prosperity of the cotton, paper, and leather industries, and know that their raw materials are free, it does not seem unreasonable that the manufacturer of wool and iron should desire free raw materials to revive their fallen industries. In asking to be relieved from oppressive taxes which are burdening the people, we are met with the declaration that we are 'free traders.'

"There is to-day no party in the country which asks for or desires 'free trade;' but if there is anything which will bring such a party into existence, it is the passage of a bill which aims not only to maintain a war tariff twenty-five years after the war for which it was created has ceased, but even to increase that tariff. A bill which adds to the duties upon established industries when the Government has more money than it needs, a bill which is to add to the burden of every citizen by increasing the cost of the necessities of life, a bill which is to deprive the manufacturer of his raw material and which deprives the farmer of an opportunity of selling his surplus product, if it is to meet the approval of the intelligence of the country, must have some stronger argument than mere party expediency or a desire to pay political obligations."

When the Conference Report on the McKinley Bill was being forced through the House, Andrew made another speech in which he said, quoting from Blaine: —

"The United States has reached the point where one of the highest duties is to enlarge the area of its foreign trade."

Then, after quoting from Resolutions of the Merchants Association, and from an opinion of the Secretary of the Home Market Club, both favoring such legislation as would tend to increase the export trade of the country, he proceeded: —

"This evidence from high Republican authorities shows that the provisions of this bill are absolutely antagonistic to the needs of the people. In order to allay opposition and to seem to meet the popular will, it is proposed to amend this Bill by adding a section which pretends to grant reciprocity of trade with foreign countries. The amendment provides that whenever the President finds the government of another country which produces sugars, molasses, coffee, tea, and hides, raw and uncured, imposing duties upon American products, which he considers reciprocally unequal and unjust, it shall be his duty to tax those articles coming from that country. He must also suspend by Proclamation the provision which places these articles upon the Free List. It is safe to say that such extraordinary power has never in recent years been given by a free people to the Executive. We here permit the President, at his own discretion, to tax the property of individuals. Section 8 of Article I. of the Constitution of the United States provides that 'The Congress shall have power to lay and collect taxes, duties, imposts, and excises,' and nowhere is a provision to be found by which this power can be exercised by any one else. Neither has the President the power to make a treaty which this amendment would seem to imply that he had.

"The passage of this Bill must cause great uncertainty in business and great injury to any one engaged in dealing in hides, or the manufacture of leather, or trading in coffee or sugar. When any other government, no matter how insignificant it may be, imposes a duty upon any of these articles which the President 'deems to be reciprocally unequal and unreasonable,' 'it shall be his duty' to levy these taxes. What a condition in which to place trade! and how can any one engaged in it know what prices may be at any moment in any of these articles? Sugar coming from one country is free, while if imported from another country it must pay a duty. Hides imported to-day may be free but if coming in to-morrow are taxed one and a half cents per pound, or free from one country and taxed if from another!

"Such government interference which no man at any time may guard against may destroy the most solvent merchant by the effect upon prices."

During the debate upon the Ship Subsidies Bill (27 February, 1891), Andrew made a speech a part of which was as follows: —

"Before taxing the entire community in order to subsidize a few shipbuilders and owners, before taking millions of money annually from the people in order to give a bounty to a few who are engaged in an unprofitable business, it would be better to examine into the cause of this unfortunate condition of our commerce and remove the evil, rather than impose upon the country an additional burden.

"The iron industry of Massachusetts, once prosperous, is now almost extinct owing to our tariff laws. The largest concern in the State is about to put its plant into Illinois, yet it would not be considered wise legislation to give a bounty to any one going into the manufacture of iron. The State of Maine, with its magnificent harbors and convenient proximity to the coal and iron fields of the Provinces, should, under wise tariff laws, be a flourishing community; but if the reports of the recent census are to be believed, there has been a falling off in the population of many of the counties in that State; yet no one would advocate taxing the whole people to allow Maine to establish manufactures. Thirty years ago America was the equal of any country in its commerce. Then ships were made of wood and used sail; to-day they are made of iron or steel and propelled by steam, but our flag is rarely seen upon the seas. If an American wishes to engage profitably in the foreign trade he must sail his ship under the flag of another country. It costs too much to build a ship in this country; and a foreign-built ship cannot be registered here. The fact that the English ship can make money while the American does not, cannot be due to the difference in wages of seamen in the two countries, because in the past, when we were able to compete with England, we paid our sailors higher wages.

"England pays no duties upon the materials which go into the construction of her ships, and she allows her people to buy their ships in the cheapest market. This is also true of Germany and France, while America puts a heavy duty upon raw materials. In the case of structural iron, the duty is 114 per cent ad valorem, and upon anchors and chains it amounts to 38 or 49 per cent ad valorem. . . . Many of the best informed experts in shipping believe that the true method to revive our commerce is not by subsidies, but by removing the oppressive taxes upon shipbuilding and allowing our people to buy ships where they can get them the cheapest."

Tariff Reformers throughout New England looked to Andrew as their special representative in this Congress, and he presented many petitions for free wool and iron ore, and for reduced taxes on products of the farm.

He opposed the admission to the Union of the "mining camp" States, fully appreciating the general inexpediency of such action and its menace to the cause of Honest Money.

As a member of the House Committee on Foreign Affairs, Andrew prepared a careful Report in favor of aiding European countries in the suppression of the slave trade. In this Report he made public for the first time the Brussels Treaty which sought to stamp out that trade on the African coast. The final ratification of the treaty was due in no small measure to his exertions.

As a member of the Committee on Civil Service Reform, Andrew again had opportunity to show his hearty support of the merit system as a measure of immediate necessity and practical importance.

Andrew's second election to Congress, in 1890, was by the largest plurality ever given a Democratic candidate in the Third District. His opponent was Edward L. Pierce. The Democratic victories that year in Massachusetts exceeded the expectations of the most sanguine supporters of Cleveland's policy. Six other Democratic Congressmen were elected; and William E. Russell was chosen Governor of Massachusetts for the first time.

In the Fifty-second Congress we find Andrew again the wise, sturdy and sincere supporter of Tariff Reform, Honest Money, and Civil Service Reform, and strenuously opposing all proscriptive legislation directed against particular races of men. He could well say with his father, "I know not what record of sin awaits me in the other world, but this I know that I was never mean enough to despise a man because he was ignorant, or because he was poor, or because he was black." He opposed the Chinese Exclusion Act, voting against the majority of his own party, and he was one of three members of the Committee on Foreign Affairs who refused to sign the provision in the Conference Report requiring "credible white witnesses." He also proposed a bill to repeal so much of the Exclusion Act as prevents persons of African descent from becoming witnesses in a court of law. He showed his independence of the Democratic party whip by being one of the few of that party who voted against the Anti-Option Bill.

During his second term in Congress, Andrew maintained his stout battle for more enlightened tariff laws. On the first bill-day he introduced bills to make raw wool, iron ore, and tin plate free of

duty, and in a later measure sought especially to except hides from the list of articles on which the President was authorized, under the reciprocity clause, to levy duties upon his own judgment, without special act of Congress. He also introduced a bill to repeal the bounty on sugar given by the McKinley Tariff Act and sought to carry out by another bill the wishes of the Boston Associated Board of Trade in regard to the repeal of certain crudities and oppressive provisions of the McKinley Administrative Act.

The Free Ship Bill, drawn by the Hon. John M. Forbes, was also introduced by Andrew.

While he never concealed his opinion on any public matter, and while he frankly expressed his judgment on men and affairs, Andrew never made enemies in so doing. He won the confidence of men whose ideas were most divergent from his own. He always respected the individuality of other men, and they in turn respected his. There was nothing of the Pharisee in his nature. "Andrew was an almost universal favorite," says a close observer of Washington affairs, "and was one of the men whose straightforward sincerity and lack of partisan feeling gained him almost as much influence on one side of the House as on the other." The high regard in which he was held by all factions of the Democratic Congressmen is shown by the fact that he was one of the few men who opposed the nomination of Mr. Crisp for Speaker of the House who were appointed by him to chairmanships of important committees. He was re-appointed a member of the Committee on Foreign Affairs, and he was made Chairman of the Committee on Civil Service Reform, of which he was a member in the Fifty-first Congress.

Of his work upon the last-named Committee, Mr. Theodore Roosevelt says: —

"Better than any words I could write for a Memoir is what I have already said about Mr. Andrew in my article on Civil Service Reform in the August (1895) Scribner. It was written, of course, before I knew of his sad death. He combined courage, principle, and common-sense, and this made him a literally invaluable ally, for he was both disinterested and effective. He was the best Chairman of a Civil Service Committee that we have ever had in the House of Representatives since the present Civil Service Reform Law went into effect."

Next in importance to Andrew's work for the maintenance of an honest currency was that which he did as chairman of this Committee. He was a sincere believer in the reform of the civil service, and contrary to the opinion of not a few avowed advocates of the cause, he felt that however valuable were the rules governing the Civil Service, as a check upon the use of the appointing power for personal or party ends, and however useful such rules might be in forming public opinion to recognize and to oppose such demoralizing use of power, the people should be taught by the example of those in authority that the Civil Service could be reformed without rules if their public servants did not take improper advantage of the power intrusted to them. A worthy official, even if not protected by Civil Service Rules, could not, with his approval, be supplanted by a partisan "worker."

One of the members of the Civil Service Reform Committee of the Fifty-second Congress[1] says: —

"He [Andrew] was prominently the working, active member of the Committee. I did not consider the Committee at the outset very warmly for the Reform, but Mr. Andrew succeeded in obtaining two of the strongest Reports that ever came from the Committee, and of the most sweeping character: one authorizing the registration of laborers in every department of the Government under reform rules, and the other providing for the choice of fourth-class postmasters according to the merit system."

The two Bills above referred to and reported by Andrew as Chairman of this Committee, proposed to more than treble the number of officials then under the Civil Service Rules. There were at that time about 36,000 employees protected by these rules. By the Bill "to exclude political influence in the employment of laborers" he sought to make merit the test for such employment in the Navy Yards and in the public works of the United States. This measure was indorsed by the Federation of Labor and by the Knights of Labor of the District of Columbia, where the actual workings of the merit system had been tested in the gun factory. It was said to have been through Andrew's co-operation with the

[1] Hon. Scott Wike, now Assistant Secretary of the Treasury, in an interview published in Boston Herald, 1 June, 1895.

representatives of organized Labor that the People's party in 1892 declared as one of its principles, —

"Should the government enter upon the work of owning and managing all railroads, we should favor an Amendment to the Constitution by which all persons engaged in the government service shall be placed under a Civil Service Regulation of the most rigid character."

His most important work for Civil Service Reform was the Bill which was framed and presented by him, to regulate the appointment of Fourth-Class Postmasters. The Report made by his Committee on this measure was a strong, frank, and most effective criticism of the Spoils System. This measure did not then become law, nor has this reform yet been established. It differed in its provisions, but not in its principles, from those of the later De Forest Report approved in 1896 by President Cleveland.[1]

Andrew was one of the few members of the Fifty-second Congress who voted against the Dependent and the Mexican Pension Bills. His many kindnesses to veterans and his interest in the Grand Army Post which bore his father's name show his regard for the soldiers of the war, but he was too straightforward and patriotic to stoop to coddling them by indiscriminate government bounty or by special privileges.

In the Honest-Money contest of the Fifty-second Congress the good work done by those who had the gift of oratory placed them prominently in the public eye, and but few knew of the quiet but equally effective service done by Andrew in making converts for Sound Money in a House where every vote was needed. In the opinion of his colleague and intimate friend, the Hon. Sherman Hoar, Andrew was the only member of Congress who is known to have made converts and won votes from the opposition. Mr. Crisp said to Mr. Hoar that Andrew was one of the few men he had ever met who had this power. Andrew knew with unfailing instinct whether a man was open to conviction. When he believed that he had found a possible convert to any cause he never was known to discuss the subject with him before a third person. He was inde-

[1] The re-organization of the Fourth-Class Postmasterships in accordance with the recommendations of the De Forest Report could not be accomplished, as the Fifty-fourth Congress refused to grant the requisite transfer of appropriations requested by Postmaster-General Wilson.

fatigable in working against the free coinage of silver, and it was largely through his efforts that the honest-money contingent of the Democratic party was increased, and held, to the number of seventy, whereby the Senate Free Silver Bill, on 13 July, 1892, was defeated by a majority of eighteen.

It was true of Andrew, as Parke Godwin said of his father, that —

"inflexibly honest in his own convictions, his sincerity always identified him with his cause; while his kindliness and justness won him the respect of those who hated his cause. This was because he worked by persuasion, not blows; by the persuasions of argument and character, and not force."

As a consequence of his labors during the long hot summer of 1891, he was stricken with a malarial illness. His wife,[1] who was most thoroughly sympathetic with his ideas and ambitions, died the following autumn. One who knew him in Washington, says that this illness and —

"the death of his wife left him in a changed condition, from which, in the opinion of his closest friends, he never fully recovered. He did not seem himself during the remainder of his Congressional career, and while he continued to do some of his best work, it was with the indifferent air of a man for whom the joy of living had ended."

The political situation in 1888 was such that it is surprising that Andrew should have been that year elected to Congress as a Tariff Reformer. His personal popularity and the confidence he inspired by his public life, together with the fine organization of the Tariff Reformers of the Third Congressional District, explains his election.

In the campaigns of 1888 and 1889 in Massachusetts the Tariff issue was strongly pressed by the Democratic candidate for the Governorship, William E. Russell, and the other leaders of the young Democracy. The result of the canvass of 1887 had a good effect. The Independents and Democrats who had not been influential in the party councils of the previous year were allowed to have a candidate and a platform which they could enthusiastically support. These campaigns were truly, as they were intended, cam-

[1] Mr. Andrew married 11 October, 1883, Harriet, daughter of Nathaniel and Cornelia (Van Rensselaer) Thayer of Boston. She died 16 September, 1891, leaving two daughters, Cornelia-Thayer, and Elizabeth.

paigns of education, and the seed sown in these years bore astonishing fruit in 1890. In that year the disappointment of many voters with the attitude of the Republicans in regard to the Tariff and Silver questions, the attempted passage of the Force Bill, the passage of the Dependent Pension Bill, and the other extravagances by which the Republican party sought to remove the menace to Protection of a surplus revenue, brought specific examples to the voters' minds of the dangers which the New Democracy had theoretically pointed out in the discussions of previous years. The results of the election surprised even those most confident of success.

In the re-districting of Massachusetts in 1891 many of the Democratic members of the Legislature were deceived by the extent of the victory of 1890, and some were disinclined to encourage the growth of Mugwump influence in the State. They were therefore easily managed by their more astute Republican colleagues. The Democrats consented to a division of the districts based on the abnormally large Democratic vote of the previous year, and also with the intention of making a second "safe" Democratic district. The effective organization of the Independents in the Ninth District and the well-nigh perfect organization in the Third District were thus broken up. The Third District voters were divided among three newly constituted districts. This action was taken in spite of the protest of all the Independent leaders in those districts whose advice was asked. The Independent organization in Massachusetts was thus practically destroyed.

When Andrew returned, in 1892, to make his third canvass for Congress, honored as he was for his work for Tariff, Civil Service, and Currency Reform, in a year when the Massachusetts Republicans had determined to spare no endeavor to regain their lost supremacy in this State, he had to contest, in a Presidential year, a new District with a normal Republican majority of about 2,000.

The Address indorsing Andrew's candidacy for re-election was signed by many of the most prominent men of the District, but the impression prevails that in this canvass he lost the aid of some of his leading supporters in past campaigns, because, through the change of district lines, many of these men were no longer in his District — a fact overlooked by many persons. His campaign was conducted with ability and thoroughness. The defection in the

Democratic wards of Cambridge, to which in no small measure his defeat was due, sprang from causes honorable to him and to his managers. Much campaign capital was made by Andrew's opponents of his refusal to meet the Republican candidate in joint debate. Although in no wise pretending to be an orator, Andrew was quick at repartee, and if his health had permitted he would have acquitted himself creditably in such a contest. As one of his closest friends writes, —

"It was want of health and not want of courage that caused him to decline this debate. He told me at the time what his doctor said, but was averse to holding himself out as a sick man."

He never fully recovered from the effects of the malarial illness which he contracted while fighting for Honest Money during the long session of the summer of 1891. Samuel W. McCall, his opponent, was elected by a plurality of 992. Andrew, although greatly disappointed at this check to his public career, bore his defeat manfully.

On his return to Washington for the short session of the Fifty-second Congress, immediately before the inauguration of President Cleveland, he introduced a Bill for the practical repeal of the Sherman Silver Purchase Act.[1] He was among the first to suggest that this Bill should be referred to the Banking Committee, which had a Sound Money majority, instead of the Coinage Committee, which had a majority of silver men. During this legislative contest, Andrew was in constant consultation with Senator Carlisle, and through him and others with President-elect Cleveland. The Bill was introduced on the first bill-day in the House, and it was a measure that fully represented the wishes of the New York and Boston Chambers of Commerce, and numerous other commercial bodies which had denounced the Sherman Act. By this Bill, Andrew did not propose to repeal the whole of the Act, as that would have revived the Bland Act of 1878, which provided for the monthly coinage of $2,000,000 in silver. If the Republican members from sound-money States had voted in accordance with the wishes of

[1] This Bill proposed the increase of circulation of National Banks to the par value of the bonds held to secure it, the repeal of the tax on circulation, and the reduction of the bond deposits; also the repeal of the Sherman Silver Purchase Act.

their constituents the Bill would not have been defeated. With this endeavor to ward off financial disaster, Andrew's career in national politics ended.

In July, 1894, he was again appointed Park Commissioner of Boston by Mayor Matthews. This position, he said, was "the only municipal office he had any desire to fill." Upon the resignation of Mr. Charles F. Sprague, who had been elected to the State Senate, Andrew became Chairman of the Board, and held that position at the time of his death.

During Andrew's second term as Park Commissioner, additional land for the extension of the Arnold Arboretum was acquired by agreement with Harvard College, including in this unique public property (which already contained Bussey Hill), the higher reaches of Peter's Hill, and increasing its area from one hundred and fifty-five to two hundred and twenty-five acres. In conjunction with the Metropolitan Park Commission, a parkway extending from the Arboretum to Bellevue Hill, connecting the Boston Park System with the Metropolitan Parks at the Stony Brook Reservation, was also secured. He favored re-foresting the Harbor Islands, — a plan, which, if carried out, would have added greatly to the beauty of the Bay, — and he recommended the establishment of playgrounds and open-air gymnasiums in different parts of the city.

Andrew was an advocate of the policy of placing Commonwealth Avenue under the control of the Park Commission, which was brought about just before the beginning of his second term. General Walker, in speaking of Andrew's work as Park Commissioner, said: —

> "He was a consistent friend of Civil Service Reform both in theory and practice, and stood up stiffly for protecting the Parks against the encroachment of labor organizations, evangelical associations, and other parties desiring to use them for the purpose of propagandism."

Andrew opposed the placing of the Park Police under the charge of the Police Commissioners, as an action unjustified by probable improvement in the discipline of the force, and not to be reconciled with holding the Park Commissioners responsible for the control of the Parks.

The fears that Andrew entertained of unsatisfactory results from the abnormal Democratic majority in the Fifty-third Congress were realized. He thought that the Southern congressmen had

not acted in good faith towards the Democrats of the East in forcing the Income-Tax provision upon the Tariff Bill. He was thoroughly dissatisfied with the result of the reform movement of a decade, and he saw clearly that, although something had been gained by placing wool, lumber, and salt upon the free list, the disappointment felt by the conscientious and thoughtful people of the country at the pettiness and incapacity shown in Congress would long postpone the probability of rallying any considerable portion of the rank and file of the Republican party to the support of the principles he had so much at heart. He believed that the votes of many Republicans were needed to replace those of Democrats who would leave that party through discontent with those acts of President Cleveland which most commended that leader to the Independents.

"It is a shame," Andrew, in substance, said to me shortly after the passage of the Tariff Bill of the Fifty-third Congress. "We have spent our money, our best energies, our thought and enthusiasm in seeking to put the public affairs of this country upon a more honest and better basis, only to have our work undone by a group of miserable jobbers."

When in 1894 public opinion turned in favor of the Republican party, Andrew was surprised only at the magnitude of the reaction. Most Independents sympathized with him in feeling no disappointment at the result of the election that year. Considered as a whole, Andrew thought this expression of public opinion a just rebuke to the Democratic party for the misuse they had made of their power in spite of the President's protests. He said at this time that he should have had a poor opinion of the intelligence of the American people if they had elected a Democratic Congress that year. He confidently expected, however, that no better, even if as satisfactory results would come from the large Republican majority of the succeeding Congress.

Throughout his public career, Andrew opposed all invasion of local self-government. He introduced the Bill to increase the power and responsibility of Mayors, in which the first step was taken in Massachusetts towards Municipal Reform. He voted against all laws prohibiting the sale of intoxicating liquors.[1]

[1] A Constitutional Prohibitory Amendment was presented by the Republicans, in 1886, for popular vote. Andrew said in a speech of this campaign in

He opposed and sought to repeal laws bred of religious bigotry. He condemned all legislation proscriptive of race.

As laws making for bad citizenship, he opposed the poll tax as a prerequisite of voting, and the taxation of personal property. He combated legislation which gave especial privileges to individuals or to classes and associations of individuals. No extravagant pension bills had his support. He opposed most of the so-called Labor Legislation. He was a bold, yet conservative advocate of Tariff Reform. Our restrictive navigation laws met his unflagging criticism and opposition.

One of the most civilized measures passed by the Congress during recent years — the Act by which works of art are exempt from customs duty — was introduced by Andrew.

If he had done no other service, his name should be gratefully remembered by all who hope to see a nobler public life developed in this country, on account of his work for Civil Service Reform.

He introduced the first bill by which a general Civil-Service law was enacted in any State, and he was "the best Chairman of the Civil Service Committee" we have ever had in the House of Representatives. He was the first Congressman to attempt to place under Civil-Service rules the laborers and fourth-class postmasters.

All those who hope to see the country benefited by the assured retention of gold as our standard of value should recognize Andrew's unremitting and uncompromising work in the cause of Honest Money. Useful as was his public life, his most noteworthy work, so modestly and quietly done as to be unknown to most men, was when, by his tact and powers of personal persuasion, he added to the number of the Democratic opponents of silver coinage, and held them together to defeat the Senate Silver Bill of 1892. Few if any of his colleagues in Congress who knew what he did to this end would deny that a large share of the credit for the defeat of that measure was due to him. His friends knew that the work he did during this and the Fifty-first Congress broke his health and shortened his days.

He came back from Washington in the spring of 1893 in a very

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regard to this prohibitory legislation: "We need no more laws; we should better enforce the laws we already have. An Act of the Legislature never yet made a man temperate."

weak physical condition, and he did not recover, even in part, his normal strength until the summer of 1894. He then appeared to be in fairly good health, but he often suffered from severe headaches. He was very careful in his diet, and lived with the greatest moderation and simplicity. He died, very suddenly, 30 May, 1895, of apoplexy, which had also caused his father's death.

He was buried from the First Church in Boston. Seldom are so many people of prominence seen at a funeral, even at that of a public man, as were assembled to pay respect to the memory of John Forrester Andrew.

Mr. Andrew lived in Boston on the northeast corner of Commonwealth Avenue and Hereford Street. His summer house was at Hingham, his mother's birthplace, where he, too, was born. He had great affection for this town and the country adjoining it. While the appointments of his life were such as befitted his fortune, he lived, both in town and country, in an essentially simple and unostentatious manner.

He was elected a Member of this Society 18 January, 1893. He was a Member and at one time a Director of the New England Historic Genealogical Society. He was President of the Phillips School Association and an Honorary Member of the John A. Andrew Post of the Grand Army of the Republic. He was a member of the Union, Somerset, St. Botolph, Country, and Algonquin Clubs, and of the last he was President from its organization. The Massachusetts Reform Club, the New England Tariff Reform League, the Young Men's Democratic Club of Massachusetts, and the Reform Club of New York were the political organizations in which he had membership. He was a Trustee of the Massachusetts School for the Feeble Minded; for some time he was President of the Massachusetts Infant Asylum; and at the time of his death he was President of the Home for Aged Colored Women and of the Society for the Prevention of Cruelty to Children.

FEBRUARY MEETING, 1897.

A STATED MEETING of the Society was held in the Hall of the American Academy of Arts and Sciences on Wednesday, 17 February, 1897, at three o'clock in the afternoon, the Hon. JOHN LOWELL, First Vice-President, in the chair.

The Records of the Stated Meeting in January were read and approved.

The Corresponding Secretary reported that the Council, acting under Chapter IV., Article 2, of the By-Laws, had elected Mr. EDWARD WHEELWRIGHT President of the Society, to fill the vacancy caused by the death of Dr. Gould, and Mr. PHILIP H. SEARS an Executive Member of the Council for the unexpired term of Mr. Edward Wheelwright.

Judge Lowell then appointed Dr. HENRY P. QUINCY and Mr. SAMUEL JOHNSON a Committee to escort the President-elect to the chair.

President WHEELWRIGHT then took the chair and delivered his Inaugural Address: —

Gentlemen of The Colonial Society of Massachusetts: —

In accepting the position to which I have been elected by the Council, I cannot but regret that some other member of the Society had not been selected to assume its duties.

I can truly say that the mention of my name in connection with the office was wholly unexpected by me. I cannot avoid being deeply conscious of my unfitness; but since the Council has, in its wisdom, and by a unanimous vote, decided to overlook my manifest deficiencies in view of certain qualifications which they claim to have discovered that I possess, it would be ungracious in me to insist upon this point and to call in question the correctness of

their judgment. I thank them most sincerely for their good opinion of me and will do my best to justify it.

From one great difficulty which usually besets a "President-elect," and which is now causing great embarrassment to the gentleman who is shortly to be inducted into high office at Washington, I am happily relieved, — I shall not have to appoint a Cabinet. My *slate* is made up for me by our Constitution, which, in the board of Councillors, has provided a body of able advisers, of tried experience whose recommendations and suggestions I can follow with implicit confidence. To them, more than to me, will be due whatever success may attend "this administration."

I shall look, too, for guidance and inspiration to the example of my predecessor, the illustrious first President of our Society. The dignity and courtesy with which he presided over our deliberations and the keen wit and genial humor with which he enlivened our social hours I cannot hope to imitate; but I can at least keep in view his high aims for this Society and aid in carrying out his plans for its present and future prosperity. I shall especially bear in mind his definition of its purposes, as expressed at what he termed its "Inaugural Meeting" 15 February, 1893, almost exactly four years ago to-day.

> "We are associated," he said, "to render, so far as in us lies, our grateful homage to the memory of these our ancestors [the men of Plymouth Colony and Massachusetts Bay], to commemorate their good deeds, to investigate the influences and agencies which brought them here, to examine the true character of the actions for which they have been criticised or censured in later days; but, above all, to draw inspiration from their example and devotion at the same time that we hope to aid in perpetuating the remembrance of their virtues and lofty deeds." [1]

Among Dr. Gould's most cherished plans for the Society there was none for which he was more enthusiastic than that of forming at least the nucleus of an Endowment, — of a Fund or Funds upon the income of which we might securely rely for the cost, first of all, of our annual Publications. Such a Fund, he thought, would also enable us to enter with confidence, and undeterred by the cost, upon fields of research which lie unexplored all around us

[1] Publications, i. 19.

and whose capabilities have often been pointed out, not only by our honored late President, but by our learned Corresponding Secretary and other of our associates. Hardly a meeting has passed without these topics being eloquently dwelt upon. Their importance has, indeed, been fully realized by the Society, and at the last Annual Meeting a vote was passed authorizing the appointment of a Committee to take the matter in hand. The Committee was not appointed at that meeting, our late President wishing to take time to select the persons best fitted to serve upon it. He had, however, before his death, prepared a list of those whom he proposed to appoint at the December Meeting; and it only remains, in order to complete the action of the Society, to name the Committee as drawn up by him.

No more fitting monument to the memory of our late President could be erected by us than such a Fund as he proposed. Out of gratitude to him and in recognition of his eminent services, if for no other reason, every member of the Society should feel bound to contribute to it, in the measure of his ability.

And now, Gentlemen, once more thanking the Council for the honor they have done me, and craving your kind indulgence for any errors or short-comings on my part as your President, I propose that we proceed with the regular business of this meeting.

Mr. Henry H. Edes called attention to the fact that the full name and antecedents of Pierre Boucher de la Broquerie, who led the French and Indians in the attack made upon Wells in the summer of 1693, had apparently been hitherto unknown to our American historians, not excepting our late associate Mr. Parkman; indeed, so little appears to have been known of La Broquerie by our American writers that they have obscured his identity under various misspellings of his titular appellation.

Mr. Edes then communicated the following correspondence which he had with John G. Bourinot, D.C.L., Honorary Secretary of the Royal Society of Canada, during the preparation, by our associate, Mr. Lindsay Swift, of the Index of the first volume of the Publications of this Society: —

House of Commons,
Canada.

Ottawa, 20th May, 1896.

Dear Mr. Edes:

The Royal Society is in active session, and I am not able for a day or two to go fully into the La Brognerie question. I know, however, it is a misprint for La Broquerie, one of the names of the Boucher family. I shall let you know all about it later.

Yours sincerely,

J. G. Bourinot.

Henry H. Edes, Esq.

House of Commons,
Canada.

27th May, 1896.

Dear Mr. Edes:

I have obtained the enclosed information respecting La Broquerie from Mr. Benjamin Sulte, F. R. S. C., the author of "Les Canadiens Français" (8 vols. 4to.), and the best informed man in Canada on such subjects. I thought it best to have my own opinion corroborated by the best authority in Canada. His letter should be used.

Yours, etc.,

J. G. Bourinot.

Henry H. Edes, Esq.

Enclosure.

Pierre Boucher de Grosbois, Governor of Three Rivers, was the father of Pierre Boucher de la Broquerie, born, Three Rivers, 1653, married, Quebec, 25th October, 1683, to Charlotte Denys de la Trinité. La Broquerie lived at Boucherville. He is the officer of 1693 mentioned by Mr. Edes in his letter of the 15th May, 1896.

His father, Pierre Boucher de Grosbois and Boucherville, lived from 1668 until 1717 on his Seigniory of Boucherville, and was known by the name of Mr. de Boucherville.

After 1717, Pierre Boucher de la Broquerie, being the eldest son, took the name of Boucherville and the Seigniory; he died there 17th August, 1740.

Joseph, son of the latter, called also La Broquerie, did good services during the wars of 1744–60. In 1756 he built ships on Lake Ontario; we have a map of that Lake by him, 1757. He died at Boucherville (of which he was the Seignor) 28 February, 1762.

B. Sulte.

24th May, 1896.

A.W. Elson & Co. Boston

Martin Gay

Engraved for The Colonial Society of Massachusetts
from a pastel in the possession of
Winckworth Allan Gay, Esquire.

Mr. EDES then offered the following vote, which was unanimously adopted by the Society: —

Voted, That the Vote of the Society at its last Annual Meeting authorizing the President to appoint a Committee of five members to consider the subject of increasing the permanent Funds of the Society is hereby amended so that the Committee shall consist of seven members, of whom the President shall be one.

The Chair then named the Committee, which Dr. Gould had selected, as follows: THE PRESIDENT, *ex officio*, SAMUEL JOHNSON, DAVID R. WHITNEY, WILLIAM ENDICOTT, Jr.,[1] CHARLES F. CHOATE, ROBERT N. TOPPAN, and NATHANIEL CUSHING NASH.

President WHEELWRIGHT exhibited the original Commission, signed by Governor Hutchinson, of Martin Gay as Captain of the Ancient and Honorable Artillery Company, and his invitation to dine with the Governor and Council on Election Day. Mr. Wheelwright then left the Chair and read the following paper: —

THREE LETTERS WRITTEN BY AN AMERICAN LOYALIST AND HIS WIFE. 1775–1788.

THESE letters are now the property of Mr. W. Allan Gay, of West Hingham, Mass., a grandson of their authors. He has kindly lent them for exhibition to the Society and has allowed copies to be made of them, which are herewith presented.

The letters are interesting, inasmuch as they bring us almost into personal contact with people who were living in Boston more than a hundred years ago, and one of whom saw, from a safe distance, the battle of Bunker Hill. They may help us to enter into the feelings and to appreciate the perplexities of those who, from misreading the signs of the times, were induced to attach them-

[1] At the time of the appointment of this Committee Mr. Endicott was serving on two similar committees of other organizations. He therefore asked to be excused from service, and Mr. Henry H. Edes was appointed by the President to fill the vacancy thus created.

selves to a losing cause. Also, taken in connection with the notes by which they are here supplemented, they illustrate the methods adopted for dealing with the confiscated estates of Loyalists, or, as they were then styled, "Conspirators and Absentees," as well as some of the devices resorted to by their families and friends to save at least a portion of these estates for their original owners.

Here follow the three Letters in the order of their dates: —

I.

a Coppy Boston 8 July 1775

Brother Jotham

I received yours of the 20 Ult°. tis from a presumption that you may receive this, that Induses me to write by this Vessel, which is bound to the river St Johns, in order to procure fresh provisions, but in Case of a desapointment there; tis probable will go to Cumberland before she returns here, if so this will be handed to you by Mr Sampel who is (as I understand) part owner, and has the Consignment of the Cargo, I hope it will be in your power to afford him any assistence he may have occation for, bouth as to buying & selling, and I must beg of you to send me as much fresh provision of all kinds as you Can Conveniantly spare and Can be admitted to ship by this or any other Vessell bound here

My Son Martin & Mr Anderson's son are pasingers in this Vessell to St Johns. my design in sending Martin there, is, that he may go from thence to Quebeck, where I hope, with M^r^. Anderson's[1] Interest & Influence to fix him an apprentice to some good man in the Mercantile way, where I trust he will be Clear of the Confution & horrour that attend this place, which is a perfict Garrison serrounded with a Rebell Army, not the lest communication from or to the Country, deprived of all the necessarys of life, which we used to have from thence, the only thing, we Can have to eate that is fresh, is fish, which is a great support to the Inhabitence, and troops in this town, without which our sittuation would be Intolarable.

the Victory obtained by about two thousend regular troops Commanded by Genl How, over a large body of the Country Rebels (tis

[1] This may refer to James Anderson, of Boston, who was an Addresser of Hutchinson and of Gage; but more probably the person referred to was Samuel Anderson, of New York, who, at the beginning of the Revolution, went to Canada, where he held, successively, high judicial offices under the Crown. See Sabine's Loyalists of the American Revolution (edition of 1864), i. 164.

said about six thousend) on the heights of Charlstown, the 17 Ult^{o} was a remarcable Action, it proves that nothing the Enimies to Great Britton Can do will daunt the Courage of Brittish troops, the Rebels had Intrenched themselves on the top of a high hill with two Cannon Mounted in the Redoubt, besides severall field pieces, on the hill which is but about a quarter of a mile from Charle's Riever, in approching which, the troops had to brake through stone walls and other difficultys which gave the Enimy every advantage they Could wish for, however after a most violent hot fire, the brave solders forsed the Intrenchments, to the Joy of all the Spectaters, (myself being one) and others on this side the riever, who are friends to their King & Country, emediatly on the Kings troops appearing on the top of the Redoubt, the Rebels ran of in great Confution leaving their Cannon, Intrenching tools and a large number of their dead and some wounded, the loss was great on bouth sides, the action lasted about an hour & a quarter; we have reason to lament the loss of so many Valluable brave offercers & men of the Kings Army who were kild on the field of Battle, & since dead of the wounds they rec^{d}; I have not seen any account of the transaction of that day made publick by authority, therefore will not pretend to say which sufferd most in the loss of men, will mention one on the Rebell side, the famus Doct^{r} Worrin, who has for some year[s] bin a sturer up of Rebelion was kild in the action, had some others of his disposition which I Could name ben there, and meet the same fate with him, it would made the Victory of that day the more Glorious; soon after the action begun the town of Charlstown was seat on fire in several places by fire balls from a battery on this side which Continued burning till all the buildings in it were Consumed, except a few houses at the Extreem part, near where a body of regular troops are now Incamped, & well fortified against any attack that may be made against them tho the Rebels meet with a shaemfull defeat, they still Continue in their opposition, in fortifying hill and other places near this town, I am not apprehencive of their ever being able to take or distroy this town, but tis a malincoly Consideration to be in this sittuation which must in time prove fatell to this town & province; if not soon preven . d by that allmighty being whose providence preserves & Governs the world & all things in it.

I dont now write to Samuell as tis uncortin wheather this will reach you, if it does tell him I received his letter, which gave me pleasure, give mine & the family Love to him, I hope he wont fail to wright by every opporty., tis now near a month since I have received any advise from our friends at hingham, they were well at that time.

I remain as useall your affectionate

Brother Martin Gay

P. S. tis more then probable there will [be] a great demand or hay & other produce of your Country which may afford matter of speculation with you

Boston July 27 1775

I have only time to acnowlidge the recept of yours of the 13 Inst and regard the Contents, but tis not in my power to send you any of the articles you mentiond, as they are for the present absolutely prohibited, since the above letter was forward.d nothing metteriall has taken place, Except the burning of houses & barns on the Islands in this harbour, and this day week, the light house was bunt by a party of the Rebels I am making new lamps for it. it will be soon in repare. I am &c.

Martin Gay

II.

Boston 24 June 1786

My Dear Mr Gay

my Last of the 8 instant Containing the Melancholy acount of the Death of my father, I make no Doubt you have Rec'd; in that I also informed you that the House was to be Sold th 15 of this Month wich was Done acordingly, Mr Walley Choose to bid it of and Brother timothy bought it at 380 pounds he paid 129 Dollars Earnest money the Rest is to be paid in 6 Weeks I wish you Cou'd Setle your affairs so as to Come Home before the time is up Mr Walley has sent you the acount of the Sale properly authentic and has Directe them to be Left at Mr Pike's at Halifax. Do Cóme Home as Soon as you Can. our friends unite with me in Love to you and the Children father Gay has got quite well faney is with me and Desire[s] her Duty to you Love to her Brothers and Sister bleve me to be

your tender Affectionate

Wife R Gay

Filed:

From Mrs Gay June 1786

III.

London 7 July 1788

Dear Sir

I acnowlidge the receipt of your Esteemed favour under date the 1th of March last, inclosing a list of Books &c. which I do assure you Sir, I received with particular pleasure, and am happy to have it in my power to fulfill your orders, with my best endeavours in the purchase

of them at the lowest rate with the Cash. the trunk Containing the articles for you, is addressed, with other small matters to Mrs Gay, by the Brig Nathan^l^, Capt Downe. the bill of Cost inclosed, you may pay when & how as it will be most conveniant. I which them safe and hope they will meet your approbation

Your ob'iging letter brought me the first intelligence of the "ratification of the federal Constitution by the Convention in your Commonwealth". the great & happy Consequences you have mentiond, that are to follow may, perhaps, strike the Europian nations with admiration, and give occasion for greater exultation then ever to the "Citizens of Massachusetts" in being independent and free from the Tirony of Great Britain; be it so, and leat them Injoy that satisfaction, which I am persuaded they may do without being envied their happiness by this Country.

The death of Mr Linclon,[1] is an affecting Instance of mortality and the uncertainty of all temporal Injoyments, under the most favourable prospect of their long Continuance

among the list of Candidates for Lieu^t^ Govr you favoured me with, you think, "Warren[2] stands an equil Chance of success", but it is my opinion Lincoln[3] is the man succeeded to that Honb^l^ and lucrative Post. the faculty of pleasing all partys, and the great abilities he has Display'd in Supporting and Suppressing Rebelions have no doubt recommended him to his fellow Citizens in preference to others.

I cannot pretend to say when my affairs will admit of my return to America. by a late act of parliament a final settlement will (it is sayed) be made with the Loyalists within a few months I must wait with patience this important event, then prepare to leave this both wonderfull & Delightfull Kingdom, and return to my family & friends in my native Country though an Alien when in it

please to make my respectfull regards to Mr Gannet[4] & lady with great Esteem, I am Sir your

Hum^le^ Servt Martin Gay

Mr James

Filed: —

To Mr E. James of Cambridge 7 July 1788

[1] This is probably intended for Lincoln, the fifth and sixth letters being transposed. Mr. James's mother was descended from the Lincolns. See History of Hingham, ii. 380, 381.

[2] General James Warren.

[3] General Benjamin Lincoln.

[4] The Rev. Caleb Gannett (H. C. 1763) and his first wife, Katherine Wendell, are here referred to. He was Steward of Harvard College from 1779 till his death in 1818.

Martin Gay, the writer of two of these letters, was a son of the Rev. Ebenezer Gay, of Hingham, Massachusetts, and was born in that town 29 December, 1726. He married first, 13 December, 1750, Mary Pinckney,[1] by whom he had seven children, several of whom are mentioned in the letters. After her death he married for his second wife, about 1770, Ruth Atkins. By her he had only two children, — Ebenezer, baptized 24 February, 1771, of whom mention is made later; and Pinckney, who died in infancy. Mrs. Ruth (Atkins) Gay died in Hingham 12 September, 1810, *æt.* 74 years. She must therefore have been born in 1736, and was about thirty-four years old at the time of her marriage. Her husband was about ten years her senior. In the History of the Town of Hingham,[2] from which most of these genealogical data are taken,[3] he is said to have "carried on the business of a brass-founder" on Union Street, Boston, but in the documents cited in this paper, wherever his calling is mentioned he is usually styled "copper-smith."[4] In the Inventory of his personal estate, however, one of the items is "a founder's mould."[5] He derived the title of Captain, commonly given to him, from his having been commissioned as "Captain in the Antient & honorable Artillery Company," under "Hand and Seal at Arms" of Thomas Hutchinson, Captain-General and Governor, &c., 5 June, 1773.[6]

The original commission has been preserved, and is in the possession of Captain Gay's grandson, Mr. W. Allan Gay. By his permission it is here exhibited. It was accompanied, when delivered, by a slip of paper which has been preserved with it. The paper is without signature and reads as follows: —

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[1] She was probably a daughter of John and Elizabeth (Gretian) Pinkney. See *post*, pp. 395, 396, *notes*.

[2] Published by the Town in 1893.

[3] See also "John Gay of Dedham, Mass., and some of his Descendants," by Frederick Lewis Gay, in the New England Historical and Genealogical Register for January, 1879, xxxiii. 45–57, from which the authors of the History of Hingham appear to have copied.

[4] See *post*, p. 398, note 3.

[5] Suffolk Probate Files, No. 16,842.

[6] In the Roll of Members, &c., published by the Ancient and Honorable Artillery Company in 1895, Martin Gay is erroneously set down as Captain under the year 1772. In 1770 he was Lieutenant. He was Captain for one year only.

"The Committee of Council prefent their Compliments to the Commission officers of the Antient & Honble Artillery Company and ask the favour of their Company to dine with the Govern^r and Council on the Election day at Concert Hall.

"To Capt Martin Gay."

On the back is written, —

"fr The Committee of Councell
June 1773."

At the same time with this military commission, Martin Gay held what would now perhaps be thought the somewhat incongruous position of church deacon. He was elected to that dignity in the West Church, in Lynde Street, in what was then called New Boston, as appears by the Church Records, in August, 1773; but only in October following, and "after due consideration, concluded to accept the office, tho' not in all respects agreeable to his own inclination." He was perhaps troubled by the seeming incompatibility of the religious duties sought to be laid upon him with those pertaining to his military capacity. The pastor of the church at the time was the Rev. Simeon Howard, who subsequently married for his second wife the new Deacon's sister Jerusha.

On the thirtieth of April, 1775, shortly after the Battle of Lexington, Deacon Gay, with Deacon Jones, was "requested to take care of the plate, &c., belonging to this church and Congregation." The church and congregation were at this time dispersed, and their meeting-house occupied as a barrack by British troops. The pastor, though well known to be a firm and zealous friend of the patriot cause, was inclined to go to Nova Scotia, where he had reason to believe he could obtain a temporary settlement as a minister, and suggested that such of his people as were so disposed should go with him. This plan was in fact carried out, at what precise time has not been ascertained, but it was evidently before the evacuation of Boston by the British forces. Dr. Howard himself returned after an absence of fifteen months. It was under these circumstances that Deacon Gay, as one of the custodians of "the plate & linnen, . . . from an apprehension that they would be unsafe if left behind, carried them to Nova Scotia whither he went with the British Troops when they evacu-

ated the town." He appears to have signified, soon after, his desire to return them, which seems to have been done as soon as it was judged feasible "without danger from the enemy." Long years after, in 1793, when Martin Gay had at length resumed his residence in Boston, the church adopted the following resolution: —

"1793. August 4. . . . Capt Gay having for several years officiated as deacon of this ch^{h} till the Society was dispersed by the war which occasioned the *Revolution*, and having taken care of the plate belonging to the ch^{h} while the town was in the hands of the british troops, and when it was evacuated;

Voted, that the thanks of the Ch^{h} be given to him for his Service in that office and his attention to their interest."

Deacon Gay's connection with the West Church appears to have been renewed, though not in any official capacity, immediately upon his return home. When, in 1805, the Proprietors were invited to subscribe to a loan for the purpose of erecting a new House of Worship, he responded with a subscription of two hundred dollars, afterward increased to three hundred. He was at that time proprietor of Pew No. 31 in the old Meeting House. On the completion of the new building, which was first opened for worship on Thanksgiving Day, 1806, he became proprietor of Pew No. 105 in the new edifice[1] and continued to hold it until his death on the third of February, 1809.[2]

Beside these two honorable offices, the one military the other ecclesiastical, Martin Gay held several others, of a civil nature, to which he was elected by the votes of his fellow-citizens.

From an examination of the Boston Town Records, as printed in the sixteenth and eighteenth Reports of the Record Commissioners, it appears that he was yearly chosen one of the two Assay Masters from 1758 to 1774, inclusive, a period of seventeen years, with the possible exception of the year 1760, when there was no report of the election of any one to that office. Also, in the years 1767, 1768, 1772, 1773, and 1774 he was chosen one of the sixteen Firewards of the Town, in which office he had

[1] This was the Building now occupied as the West End Branch of the Boston Public Library.

[2] The Columbian Centinel (No. 2592) of Saturday, 4 February, 1809, records his death on the previous morning, and announces his funeral on the following Monday "at half past 8 o'clock from his late dwelling house on Union Street."

as associates such men as John Hancock, Samuel Adams, and Adino Paddock. His staff of office as Fireward, a slender rod, painted red, five and a half feet in length, has been preserved.

In 1771 he was chosen one of the twelve Wardens of the Town; and in 1774 he was one of fifty-five gentlemen, beside the Representatives of the Town, the Overseers of the Poor, and the Town Treasurer, who were invited to accompany the Selectmen to visit the Public Schools.

The holding of these offices, of considerable importance in those days, indicates the esteem in which he was held by his fellow townsmen. After 1774 he was not elected to any town office, owing, doubtless, to his public avowal of Loyalist sentiments. In June of that year he was one of the signers of an Address presented to Governor Hutchinson, on his retirement, by "one hundred and twenty of the merchants and principal gentlemen of Boston, of very reputable character."[1]

Before leaving Boston with the British troops, our worthy Copper-smith, Captain, and Deacon was to receive one more token of the high estimation in which his character was held by persons of both political parties and of differing religious denominations. By a letter dated Boston, 24 February, 1776, addressed by Thomas Oliver, who had recently become Lieutenant Governor, to the Rev. Dr. Henry Caner, Rector of King's Chapel, Col. Jonathan Snelling, Major Adino Paddock, Capt. John Gore, and Capt. Martin Gay, those gentlemen were authorized and required to take possession of "the House commonly called the Green Dragon, and prepare it as a Hospital for the Reception of such Objects as shall require immediate Relief." The "Objects" specially contemplated in this order of the Lieutenant Governor were those who were in distress occasioned by the long "blockade" of the Town by the Provincial forces. For the benefit of these distressed persons, and especially of "the Widow and the Orphan, the Aged and Infirm," who "soonest and most severely feel the Effects of Scarcity," a subscription had been opened, headed by the Lieutenant Governor with a contribution of 50 Dollars = £15. 00. 00. Of the fund thus to be raised the Rev. Dr. Caner and Messrs. Paddock, Gore, Gay,

[1] See List of "Addressers" in Proceedings of the Massachusetts Historical Society for October, 1870, xi. 392–395. Also, Hutchinson's History of Massachusetts, iii. 459.

and Snelling had been appointed stewards, — Martin Gay had himself subscribed 10 Dollars = £3. From a paper in Dr. Caner's handwriting, dated "Halifax, May, 1776," it appears that the proceeds of this subscription amounted to £139. 19. 6., of which £46. 4. 6. had been expended for relieving the Poor, leaving a balance of £93. 15. 0 in the hands of Capt. Martin Gay and Col. Snelling.[1] Capt. Gay had by that time left Boston. What became of the above balance is not stated. No doubt the Captain-Deacon's stewardship in this case was as faithful as in that of the West Church communion plate.

Within a month after performing this last service of beneficence to the Town which had so long been his home, Martin Gay was on shipboard, bound for Halifax in company with the British troops whom he so fondly thought to be invincible, but who were now flying from the despised Continentals. In the "List of the inhabitants of Boston, who on the evacuation by the British, in March, 1776, removed to Halifax with the army,"[2] is the following: —

"Gay, Martin . . . . . 3."

The figure 3 placed after the name seems to indicate that Martin Gay was accompanied in his flight by two other persons, making, together, a party of three. According to the family tradition these companions were his daughter, Mary, who afterward married the Rev. William Black of Halifax, N. S., and his son Martin. He also took with him "his man London." Martin Gay, the younger, as we have seen by his father's letter of 8 July, 1775, was a passenger to St. John in the vessel by which that letter was sent. If it were he who accompanied his father to Halifax, he must have returned to Boston in the interval. In the List of Loyalists in the Memorial History of Boston (III. 175), are the names of Martin Gay and Samuel Gay.

Leaving Boston in March, 1776, with the British troops, Martin Gay remained in Nova Scotia during the whole period of the Revolutionary War. In 1787, four years after peace had been declared,

[1] Foote's Annals of King's Chapel, ii. 294–296. See also the Rev. Edward G. Porter's Rambles in Old Boston, p. 98.

[2] This List is commonly known as Barrell's List. It is printed in the Proceedings of the Massachusetts Historical Society for December, 1880, xviii. 266–268.

he appears to have made a visit to Boston, and in the autumn of 1788 he went to England, apparently with the hope of obtaining from the British Government an indemnity for his losses as a Loyalist. He remained there two years. In 1792 he returned to Boston "to remain permanently," and continued to reside there until his death.

The first letter in the series was written by Capt. Martin Gay to his brother Jotham, seven years his elder. Jotham Gay had been an officer of the Provincial forces in the Old French War, and in 1755 had taken part in the expedition against Nova Scotia under Gen. John Winslow. He had afterward settled in the Province which he had helped to conquer from the French, and at the date of this letter he had been for more than ten years a resident of Cumberland, Nova Scotia. The letter, though inscribed "a Coppy," is in the undoubted handwriting of its author, and is signed in two places with his usual signature. It is probably the first draft of the letter actually sent. It is chiefly noteworthy as containing a mention, — it is hardly more, — of the Battle of Bunker Hill by an eye-witness. Written just three weeks after the event, it adds nothing to our knowledge and only repeats the rumors that were circulating before any authentic account was published. The writer's loyalty to his "King and Country" is very apparent, as well as his detestation of all Rebels and especially of the "famus Doct^{r} Worrin," whose name he curiously, though phonetically, misspells. The "son Martin" mentioned in the letter was a youth of fifteen years, who, three years later, was accidentally shot by a friend while gunning near Windsor, Nova Scotia.

Samuel Gay was an older son, who graduated at Harvard in this same year, 1775. Why he was not at this time taking his degree at Cambridge, at the College Commencement, which in those days was always held in July, is explained by the fact that, owing to the disturbed state of the times and the quartering of American troops in the College buildings, no public Commencement took place that year. Samuel Gay became a permanent resident of New Brunswick, and, according to the History of Hingham, above cited, was for several years a member of the Provincial House of Assembly for Westmoreland County and Chief

Justice of the Court of Common Pleas. He died 21 January, 1847, in his 93d year.[1]

The second in date of these letters, dated Boston, 24 June, 1786, is from Mrs. Ruth Gay, second wife of Capt. Martin Gay, to her husband, then at Halifax. Mrs. Gay's maiden name, as already stated, was Atkins. It appears[2] that she was the daughter of Thomas and Sarah Atkins of Boston. Thomas Atkins, a bricklayer by trade, was a well-to-do citizen, his real estate having been appraised at his death, in 1785, at £1,696 13*s.* 4*d.* He, with his eldest son Timothy, adhered to the patriot cause, but his second son Gibbs Atkins, a cabinetmaker, was, like his brother-in-law Martin Gay, an Absentee.[3] So were families divided in "the days that tried men's souls."

The "faney" spoken of in this letter must have been Frances, Martin Gay's youngest daughter by his first wife. She was baptized at the West Church in April, 1763, and was now about 23 years old. She had remained with her step-mother in Boston. The "Brothers & Sister," to whom she sends love were Samuel and Mary (children of Martin Gay), and the husband of the latter, the Rev. William Black, of Halifax. Martin, another brother, as we have just stated, died in Nova Scotia eight years previous.

The most interesting part of this letter, however, is that which refers to the sale of the "House." This house has a curious history. It was included in the estate purchased in 1760 by Martin Gay, in part from the descendants of the four daughters of Hannah Bradford, who had inherited it from her father, John Rogers, of Swanzey,[4] and in part from Samuel Valentine of Freetown, Bristol County, as shown by the following conveyances[5]: —

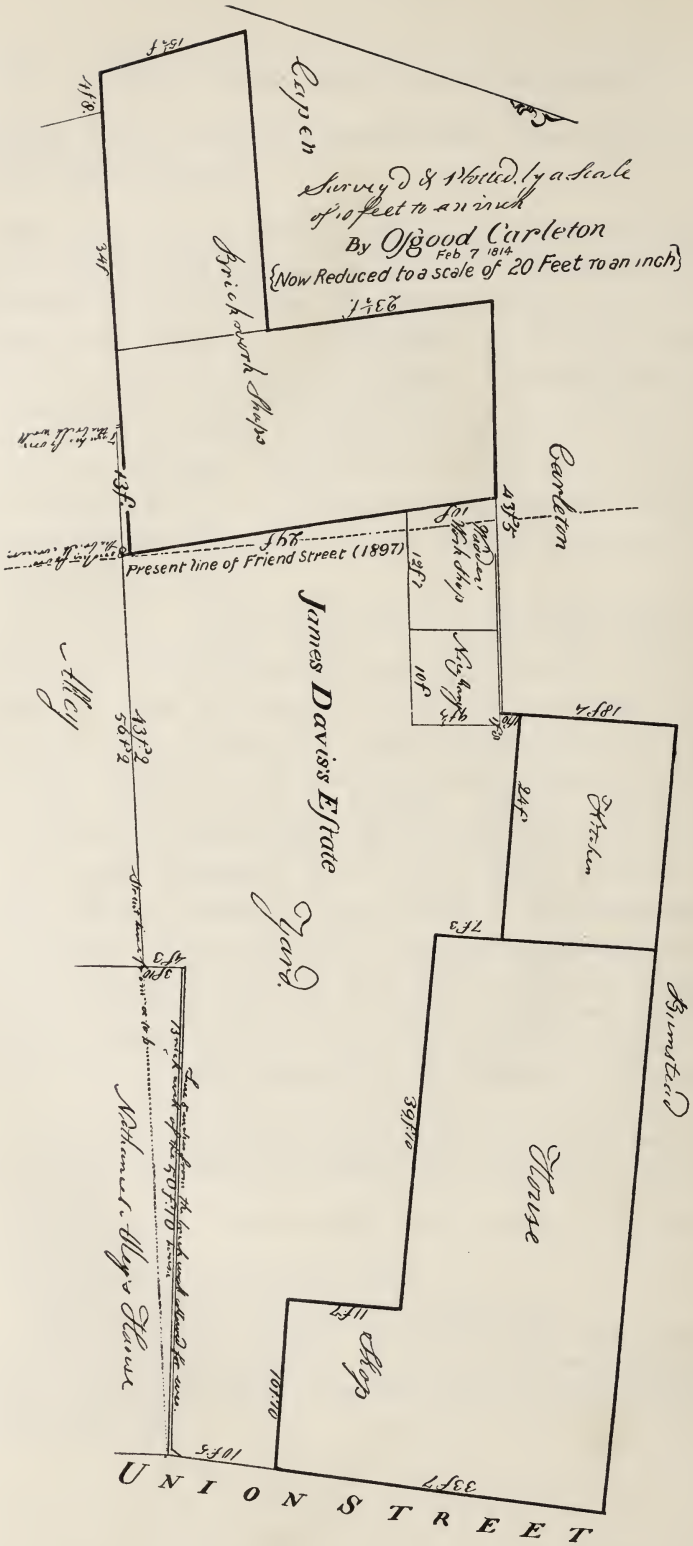
[1] See also Mr. Frederick Lewis Gay's article in the New England Historical and Genealogical Register for January, 1879, xxxiii. 45–57, already cited on p. 384, *ante*.

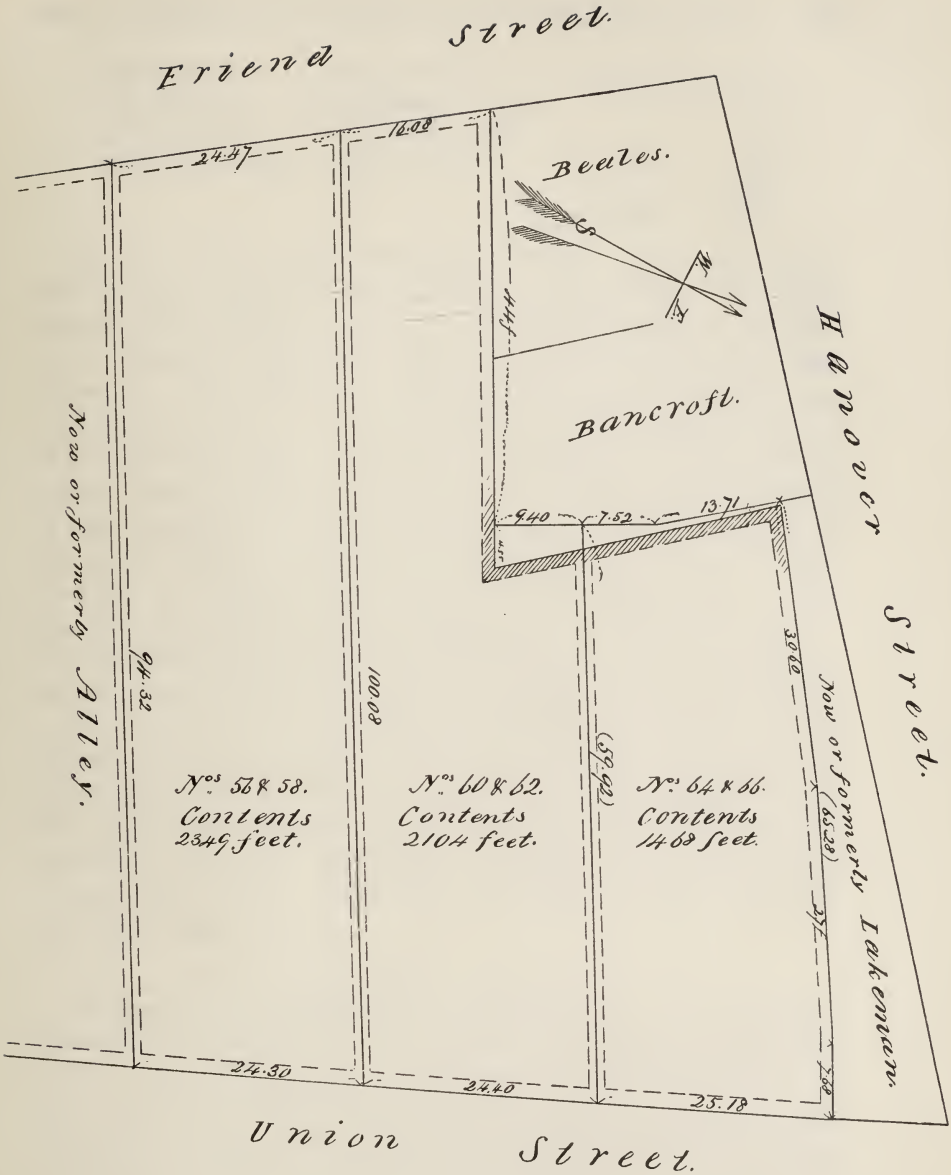
[2] Suffolk Probate Files, No. 18,785, Bond of Timothy Atkins *et al.*, dated 9 December, 1794.

[3] See Suffolk Probate Files, No. 16,950.

[4] Swansey or Swansea, Bristol County, Massachusetts.

[5] Suffolk Deeds, xcv. 196–198. The second of these conveyances (Gay to Gay) is from the parents of Martin Gay, viz, — "Ebenezer Gay of Hingham, clerk, & Jerusha, his wife." Mrs. Gay was one of the four daughters of Hannah Bradford.


Carpen
Surveyd & Worked by a Scale
of 10 feet to an inch
By Osgood Carleton
Feb 7 1814
{Now Reduced to a scale of 20 Feet to an inch}
Brick work Shops
Carleton
Present line of Friend Street (1897)
James Davis's Estate
Yard
Stable
House
Shed
UNION STREET



Scale, 10 Feet to an Inch.
Boston. Decr 23d 1881.
Alex Wadsworth, Surveyor.
{Now Reduced to a scale of 20 Feet to an inch.}

Lane to Gay,	13 May, 1760.	Consideration,	£30.
Gay to Gay,	30 September, 1760	"	30.
Godfrey to Gay,	30 December, 1760	"	30.
Valentine to Gay,	20 June, 1760	"	100.
		Total,	£190.

By each of the three first-named of the above conveyances Martin Gay acquired an undivided fourth part of the estate bequeathed by Hannah Bradford to her four daughters. Further search would probably show that the remaining fourth part was included, with additions or improvements, in the premises conveyed by the deed of Samuel Valentine. All the premises conveyed by these deeds are described as situated in Union Street, Boston, but no boundaries nor measurements are given, excepting of that purchased of Samuel Valentine, which actually bordered on the street, where it measured seventeen feet, and was bounded northerly (it should read southerly) on a passage-way. This passage-way, called in subsequent deeds "the great entry way," was included by implication in all the undivided portions purchased. As the whole front, including the passageway, is described in subsequent deeds as measuring forty-four feet, it must have been twenty-seven feet in width. This width was afterward reduced, at the entrance, to ten feet five inches by the prolongation of the shop fronting on the street, or its reconstruction on a larger scale.[1] It was on the portion purchased of Valentine that Martin Gay's "front shop" stood. There was an entrance through it to the dwelling-house in the rear.[2]

[1] See plan drawn by Osgood Carleton, 7 February, 1814.

[2] From plans drawn in 1814 by Osgood Carleton, and in 1881 by Alexander Wadsworth, for subsequent owners of the estate, it appears that the site is now, in part, covered by the modern buildings numbered 56–58 and 60–62 Union Street, near Hanover Street, and opposite the entrance to Marshall Street. A large part of the rear portion was cut off in laying out Friend Street, in 1855, but the line of frontage on Union Street remains, measuring, however, $48\frac{70}{100}$ feet instead of 44 feet, according to the old measurement. Something has probably been added from the adjoining estate on the north, belonging to the same owners, in order to equalize more nearly the width of the three buildings. All resemblance to the former aspect of the premises has entirely disappeared. "*The great entry way*" was long since closed and built upon. The numbering of Union Street has been frequently changed; in 1840 the building covering the site of Martin Gay's front shop was No. 22.

The sale mentioned by Mrs. Gay took place under the provisions of Several Acts of the General Court (1777–1780) for the disposal of the estates of "Conspirators and Absentees." In some respects these estates were treated as those of deceased persons.[1] Thus on the twenty-seventh of March, 1779, a warrant was issued by the Probate Court to Giles Harris, Jonathan Brown, and Jacob Cooper to —

"set off to Ruth Gay, wife of Martin Gay, an absentee, for her use & Improvement during the absence of her Husband, one third part of the Real Estate whereof her Husband, the said Martin Gay, was seized & possessed at his departure from this State," etc.[2]

Pursuant to this warrant, the above-named persons report, 2 April, 1779, that after examining the premises and notifying persons interested —

"We Divide & Sett off to the said Ruth Gay, as her third part in said Real Estate, The two middle tenements (of the house in Union Street, Boston) with the cellars, chambers and upper rooms to the same belonging as the partition now stands and the land under the same. Also the shop fronting on Union Street and the land under the same, with the liberty to go through the great entry way into the said shop with the use and improvement of the Yard Well, Pump and Privy."[3]

According to the family tradition this assignment of "the two middle tenements to Mrs. Gay," as "her thirds" of the real estate was made at her request, or by her choice, as a shrewd means of retaining for herself, and eventually for her husband, the *whole* of the property. Naturally it would be difficult to sell or to lease the two ends of a house so divided and with the middle taken out. So it appeared to the creditors of the estate, and accordingly an Appeal to the Governor and Council against the action of the Probate Court was taken in their behalf by John Lowell, who had been appointed "Agent" of the estate.[4]

In a paper dated 16 April, 1782, and preserved in the Probate Files,[5] he gives his reasons for the Appeal as follows: —

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[1] See Act of 1 May, 1779 (chap. 49), Province Laws, v. 968–971, 1056, 1057.

[2] Suffolk Probate Files, No. 16,842. See Acts of 1776–77 (chap. 38, sect. 5), Province Laws, v. 631.

[3] Suffolk Probate Files, No. 16,842.

[4] This Appeal was allowed by Chap. 278 of the Resolves of 1781, approved 30 October of that year.

[5] Suffolk Probate Files, No. 16,842.

"First, That the part of said estate assigned for the dower as aforesaid is much greater than one third part thereof in quantity and value.

"2d, That the dower aforesaid is assigned in a manner very injurious to the residue of said estate and the creditors therein interested by diminishing the value and rendering the same unsaleable; whereas the said dower without injustice to the Widow [1] may be sett off in a manner more convenient to the whole estate & less detrimental to the creditors." [2]

Nothing further seems to have been done in regard to this Appeal, and the matters in dispute appear to have been finally settled by the sale at auction of the residue of the estate — less the portion reserved to Mrs. Gay as dower — to her brother Timothy Atkins, 15 June, 1786. Mr. Timothy Atkins evidently "bid in" the house for the benefit of his sister. He was abundantly able to do this, as he had, meantime, become entitled, as the eldest son, to a double share of the estate of his father, Thomas Atkins (d. 1785), of which he and his mother, Sarah Atkins, were administrators.[3] Mrs. Gay may also have contributed a portion of the purchase money out of her share of her father's estate. The amount stipulated to be paid, 380 pounds lawful money, was probably sufficient to satisfy the creditors and to prevent them from prosecuting their Appeal. It was also doubtless more than any one else would have paid for the property under the then existing conditions. The amount paid down at the sale as earnest money, according to Mrs. Gay, was 129 dollars. How large a proportion this was of the whole price, and how much the whole price amounted to, it is difficult to ascertain, as there were so many kinds of money in use at the time as to cause great confusion and uncertainty.[4] The balance was to be paid in six weeks. It was, at all events, paid before the execution of the deed of conveyance, on the ninth of December following. Mr. Thomas Walley appears to have acted as auctioneer at the sale, and was also one of the witnesses to the deed. He, like Capt. Gay,

[1] Mrs. Gay is so styled by inadvertence, as her husband was still living.

[2] John Lowell, the Agent of the estate, was a Boston merchant and auctioneer, a member of the Committee of Correspondence and, in 1776, Deputy-Secretary of the Executive Council. He was cousin-german to his more distinguished namesake, Judge John Lowell (1743–1802), and died in Boston, 1 June, 1793, æ. 54 years.

[3] Suffolk Probate Files, No. 18,785. The estate was not settled until 1794.

[4] See Hassam's Confiscated Estates of Boston Loyalists in 2 Massachusetts Historical Society's Proceedings for May, 1895, x. 162–185.

belonged to the West Church, and his name frequently occurs in its early records. According to Mrs. Gay, he sent an account of the sale, properly authenticated, to her husband at Halifax.

The conveyance to Timothy Atkins is recorded with Suffolk Deeds, Lib. 161, Fol. 240. It recites that Richard Cranch, Samuel Henshaw, and Samuel Barrett, a Committee appointed to sell the Estates of Conspirators and Absentees in the County of Suffolk, had sold at public auction to Timothy Atkins of Boston . . . Brick-layer, for 380 pounds lawful money, a certain part of a certain real estate, late the property of Martin Gay, an Absentee.

The estate is described as consisting of a brick dwelling-house, shop, stable, and other Buildings in the Town of Boston, bounded Easterly on Union Street 44 feet, &c. (then follow the other boundaries), all which is conveyed to said Timothy Atkins by warranty deed —

"excepting and reserving, for the future disposal of the Commonwealth, all that part of said premises which was set off to Ruth Gay, the wife of said Martin Gay, viz., the two middle tenements . . . [Here follows a description identical with that contained in the extract from the Probate Records cited above] as will more fully appear by reference to the Record in the Registry of Probate's Office for said County," *i. e.*, in Suffolk Probate Files, No. 16,842.

The deed was acknowledged 12 January, 1787, before "Wm Wetmore, *Jus. Pacis.*"

Prior to this sale, during the years 1779 and 1780, Mrs. Gay paid rent "for part of the Mansion House" (*i. e.*, the part not set off to her as dower) to John Lowell, Agent of the Estate. The stable and the work-shop were also leased to other parties.[1]

Four years after the date of the conveyance to Timothy Atkins, *i. e.*, 10 June, 1790, another transfer of the property took place.[2]

[1] Beside the estate on Union Street, Martin Gay, at the time of his leaving Boston, owned a house and land on Winter Street. This was also leased by John Lowell, Agent, until sold to John Davis, of Boston, shopkeeper, for £225, "money." (Suffolk Deeds, cxxxvi. 228.) In this sale no right of dower was reserved. In the Inventory of the estate of Martin Gay, Absentee, 2 April, 1779, the Mansion House, workshop, stable, and land belonging to the same were appraised at £9000. 0. 0, and the House and land in Winter Street at £600. 0. 0. (Suffolk Probate Files, No. 16,842.)

[2] Suffolk Deeds, clxviii. 122.

The instrument by which the transfer was effected is styled an Indenture and Covenant between Atkins and Gore, by which Timothy Atkins of Boston, Bricklayer, —

"in consideration of . . . five shillings . . . and for and in consideration of the love & affection he bears to Ruth Gay and Ebenezer Gay [her son] doth bargain, sell, &c., to Christopher Gore of the same Boston, Esquire, all that real estate in Union Street, Boston, which he purchased of Richard Cranch, Samuel Barrett & Samuel Henshaw, a Committee, &c. [Then follow the boundaries as in the former deed] . . . To have and to hold all the aforesaid premises [excepting all that part of the estate which was set off to Ruth Gay as Dower and which is subject to the future disposal of the Commonwealth] to the use and behoof of Ruth Gay, wife of Martin Gay . . . for and during the term of her natural life, and in case she shall survive her son, Ebenezer Gay, and be in full health at the death of her said son . . . then to the use and behoof of her, the said Ruth Gay, her heirs and assigns forever; but in case said Ebenezer Gay, son of said Martin and Ruth, shall survive and overlive her, the said Ruth Gay, then from and after the determination of that estate, viz., the estate of said Ruth Gay, for and during the term of her natural life, — to the use and behoof of the said Ebenezer Gay, his heirs and assigns forever.

Ebenezer Gay was the youngest son of Martin Gay and the only surviving child of his second wife. He graduated at Harvard College in 1789, practised law, and was a member of the State Senate. At the date of the above mentioned instrument, he was about nineteen years of age. He became the father of Mr. Winckworth Allan Gay, the artist, the present owner of the letters.

Christopher Gore, one of the parties to the above Indenture, afterward (1809) became Governor of Massachusetts and held many other high offices in the State and Nation. He was at this time a young man of thirty-two (born in 1758), and was the son of John and Frances (Pinkney) Gore. Frances Pinkney, his mother, was daughter of John and Elizabeth (Gretian) Pinkney. They had another daughter, named Mary, born 7 March, 1729, who was very probably the first wife of Martin Gay.[1] If so, she

[1] See *ante*, p. 384 and *note* 1. There is, to be sure, a difference in spelling. Martin Gay's wife is called Mary Pinckney; the daughter of John and Elizabeth was Mary Pinkney.

would have been between twenty-one and twenty-two years of age at the time of her marriage, 13 December, 1750. If the above conjecture is correct, young Gore was nephew by marriage to Martin Gay, and the transaction may be said to have been "all in the family."[1]

The effect of this instrument was to assure to Mrs. Gay through Christopher Gore, her trustee, and in case of her death to her son, control of the two end portions of the estate, of which she already controlled the middle portion by virtue of her right of dower, but only for her own life. In order to secure this middle portion to her son in case of her death, it was necessary that she should obtain an absolute estate in it; in other words, that she should acquire what is called the remainder, which was still vested in the Commonwealth. This was finally accomplished. Martin Gay himself, on his return from his long exile, having apparently resumed his rights of citizenship, petitioned the Massachusetts Legislature to grant to his wife Ruth the "remainder, after the death of said Ruth," in the estate in Union Street, Boston, in which she still held her right of dower, said "remainder" being then in the Commonwealth. The Petition was granted, and on the twenty-seventh of February, 1807, a Resolve was adopted by the General Court directing John Read and William Smith, Esqrs., to convey to Ruth Gay all the interest of the Commonwealth in the Union Street estate "for such sum of money as, under all the circumstances of the case, may be thought just and reasonable."[2]

Accordingly, on the twenty-third of June, 1807, the above mentioned John Read and William Smith did, in consideration of $1,680, convey to Ruth Gay, her heirs and assigns, —

"all that part of the estate which formerly belonged to the said Martin Gay . . . which was assigned and set off to the said Ruth Gay as her third part of said estate by the Judge of Probate for said County of Suffolk, on the second day of April, 1779,"

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[1] See Genealogies of the Payne and Gore Families, published by the Prince Society, 1875, and in the Proceedings of the Massachusetts Historical Society for January, 1875, xiii. 405–424. See also the will of John Pinckney in Suffolk Probate Files, No. 7219. For a further account of Christopher Gore, see Quincy's History of Harvard University (edition of 1860), ii. 430; Foote's Annals of King's Chapel, ii. 476–480 and *notes;* and 3 Massachusetts Historical Collections, iii. 191.

[2] Chap. 85 of the Resolves of 1807.

consisting of the "two middle tenements," etc., so often mentioned. By this conveyance[1] Ruth Gay acquired an absolute estate in fee simple of that part of the Union Street property which had been originally set off to her as dower, and the other two thirds of this property being held by Christopher Gore in trust for her and her son Ebenezer, she had become virtual owner of the whole.

On the sixteenth of November, 1809, — Martin Gay having died in the preceding February, — two deeds were executed:[2] by the one, Ruth Gay, widow, now resident in Hingham, conveys to James Davis, of Boston, brass-founder, all that part of the Union Street estate which had been originally set off to her as her dower, to wit, the often mentioned "two middle tenements," etc., by the other, Ruth Gay, widow, and her son Ebenezer Gay unite in conveying to the same James Davis the other two thirds of the Union Street property which had been bought in by Timothy Atkins at the sale 15 June, 1786, and afterward, 10 June, 1790, conveyed to Christopher Gore in trust.[3] The consideration named in the first of these deeds of 1809 was six thousand dollars, in the second nine thousand dollars, together, fifteen thousand dollars, which may fairly be said to have been saved to the family by Mrs. Ruth Gay's shrewd management.[4] Her son, Ebenezer Gay, was now thirty-eight years of age, and married (in 1801) to Mary Allyne Otis, who, as his wife, releases her right of dower in the premises. Less than half of the purchase money was paid at the time by Mr. Davis. For the remainder he gave to Mrs. Ruth Gay a mortgage on the property, payable by instalments in ten years. The mortgage was discharged by Ebenezer Gay, 9 April, 1817, his mother having died 12 September, 1810.[5]

[1] Suffolk Deeds, ccxxii. 168.

[2] *Ibid.* ccxxx. 301.

[3] It seems not to have been thought necessary to make Christopher Gore a party to this conveyance, though the legal title to the estate conveyed would seem to have been at the time vested in him as Trustee. It was probably assumed that the purposes for which the trust was created had been accomplished, — that it had executed itself. Its provisions are rehearsed in the deed to Davis.

[4] From this amount should be deducted the £380 lawful money paid by Timothy Atkins at the sale, 15 June, 1786, and the $1,680 paid by Mrs. Ruth Gay, 23 June, 1807. (Suffolk Deeds, ccxxii. 168.)

[5] Suffolk Deeds, ccxxii. 302.

The subsequent history of Martin Gay's estate on Union Street has been told by Mr. Samuel T. Snow, Treasurer of the Revere Copper Company, in a paper read by him at a Stockholders' meeting of that corporation 24 March, 1890, and afterward printed. Mr. Snow has been connected with the Revere Copper Company for more than fifty-six years. He has kindly lent a copy of his beautiful little book which is now offered for inspection.[1] Mr. Snow relates that, in the year 1800, Mr. James Davis, the elder of that name, then twenty-two years of age, hired a shop on Union Street and started in business as a brass-founder. He had learned that trade from a Hessian, said to have been a deserter from the British Army, who had been in the employ of a Mr. Crocker,[2] a pewterer, to whom Mr. Davis had been bound as an apprentice at the age of fourteen.

Martin Gay, on his return to Boston in 1792, resumed his business as a coppersmith at his old stand, and soon after entered into relations, either as employer or associate, with young Mr. Davis.[3]

"Mr. Gay subsequently proposed to Mr. Davis to sell him the business, and further to aid him with such pecuniary assistance as he might require in its prosecution. This proposition was finally accepted, but not without some considerable hesitation on the part of Mr. Davis, as he had no security to offer for the indebtedness involved. No security was required nor was any ever given, but the transaction was fully completed by a transfer, and by its ultimate payment without default."[4]

[1] It is entitled Fifty Years with the Revere Copper Company. A paper read at the Stockholders' Meeting held on Monday, 24 March, 1890. By its Treasurer, S. T. Snow. Boston: Printed by request and for use of the Stockholders.

[2] The Boston Directory of 1796 records the name of Robert Crocker, brass founder, on Edwards' wharf, Back Street, whose house was also on Back Street.

[3] Mr. Snow thinks that it was through this association that Martin Gay acquired the designation of "Brass founder," sometimes applied to him. In all original documents examined, of early date, where his calling is mentioned, he is styled "Brazier" or "Coppersmith;" in later documents, "gentleman."

In the Act of the year 1778 (chap. 24), "to prevent the return to this State of certain persons therein named," etc., the name of Martin Gay is followed by the designation "*Founder.*" (Province Laws, v. 913, 1004–1009.) Also, in the Inventory of the Estate of Martin Gay, Absentee, taken and appraised 2 April, 1779, one of the items (besides the founder's mould already mentioned) is "Founder's pattin [?], £8. 15. 0." (Suffolk Probate Files, 16,842.)

[4] Fifty Years with the Revere Copper Company, p. 21.

JAMES DAVIS & SON
BRASS & COPPER FOUNDERS.
REVERE COPPER CO.
22

This transaction was certainly highly honorable to both parties, and shows moreover the kindly and generous nature of the returned "Absentee."

After Mr. Gay's death, in 1809, Mr. Davis, as we have seen, purchased the estate from his widow and his son Ebenezer,

"and the property, as enlarged by several subsequent purchases, still [1890] remains in possession of his heirs.[1] . . . He occupied the entire premises with his foundry, shop, and residence for many years, associated with himself his son, Mr. James Davis, Jr., as a partner, January 4, 1828, and finally merged the business into the Revere Copper Company."[2]

This Company was incorporated in June, 1828. The original Charter members were Joseph Warren Revere, James Davis, Frederick Walker Lincoln, and James Davis, Jr. They occupied the premises formerly belonging to Martin Gay until 1 June, 1843.

There is a frontispiece to Mr. Snow's little volume, representing, as he says, the office of the Revere Copper Company in 1840, when that Company —

"occupied so much of the building on Union Street as had previously been devoted by Mr. Davis to a shop, wherein were displayed the wares kept by him for sale, and still earlier had been used by Mr. Gay for the same purpose."[3]

Mr. Snow says that this frontispiece was etched from a drawing made by himself from memory. The passageway which is seen on the left is "the great entry way" mentioned in the deeds.

Of the last letter of the series, written by Martin Gay from London, in 1788, there is not much to be said. Mr. E. James, of Cambridge, to whom it is addressed, was undoubtedly Eleazar James, son of Philip James of Hingham, where he was born 6 August, 1754. He graduated at Harvard College in 1778, and was a tutor there from 1781 to 1789. There may be something of

[1] Fifty Years with the Revere Copper Company, p. 21. In a note Mr. Snow adds: "The foregoing is taken largely from Mr. Joseph T. Buckingham's Letter, No. XVII., in The Saturday Evening Gazette, of May 21, 1859. It is understood that the facts contained therein were obtained by him directly from Mr. Davis."

[2] *Ibid.* p. 22.

[3] *Ibid.* p. 13.

irony in what the writer says of the great and happy consequences expected to follow from the ratification of the Federal Constitution, and in his allusion to the "Tirony of Great Briton." There was at least one "Tirony" to which, Loyalist as he was, he never submitted, — the tyranny of the Spelling Book, under which we all now so servilely bend the neck. One cannot but sympathize with the longing of the exile to return, even as an alien, to the land of his birth, and though his banishment had been of his own choosing. Nor should we blame too severely the man who, in adhering to a losing cause, acted as many a man of conservative tendencies at the present day might have done had he been placed in the same circumstances. At all events, he never raised his hand against his native country. He was an "Absentee," but not a "Conspirator." Besides, it should be noted that, in leaving Boston for Halifax with the British troops, he was going to rejoin a considerable portion of his family, already settled in the Provinces, and that a part of his church with its pastor had preceded him thither.

While residing in London, Martin Gay had a portrait of himself done in pastel, which is now in possession of his grandson W. Allan Gay. It represents him as a well-dressed gentleman of the period, with powdered hair, and a shrewd, yet kindly face, which does not belie what we know of his character. "He was the son of Dr. Gay of Hingham," says the Rev. Charles Lowell, his pastor at the time of his death, "and did not dishonor the name of his excellent father."[1]

Martin Gay's will[2] is dated 7 August, 1807, and was proved 13 February, 1809. He was buried in the Granary Burial Ground, in a tomb marked with his name, near the line of the projected new Congregational Building, which will front on Beacon Street.

Mr. Andrew McFarland Davis then said: —

The prolonged contest which was maintained in the eighteenth century, between the Royal Governors of this Province and the House of Representatives, is in some of its aspects familiar to us, although its history has never been adequately written. At times the Council sympathized with the House, but again the character of the claims set up by the Representatives compelled

[1] Occasional Sermons; Notes, p. 68.

[2] Suffolk Probate Files, No. 23,289.

the opposition of the Board. The steady effort of the House was in behalf of self-government, but the claims which they sometimes set up were inconsistent with almost any practical form of government, and were certainly not in conformity with the theory of the Charter. On the other hand, the attitude maintained by some of the Governors was so despotic that self-respect compelled opposition, and acquiescence in their demands would have been humiliation. Such a contest as this, maintained for so long a period, of necessity developed much bitterness of feeling. Arguments upon questions of State often descended to *ad captandum* criticisms of language, and the principles involved were frequently lost sight of in the attempt to gain some slight advantage in the discussion. Oftentimes the debate degenerated into personalities, and efforts, scarcely veiled by the stilted language of official documents, were made to wound the feelings of the opposing side. The contempt and anger of the contestants might be contained in some simple message or vote, the real meaning of which could be disclosed only by reading between the lines. A request on the part of the House that the Governor should adjourn the General Court as they had no business of importance to transact would seem upon its face to be entirely innocent, but when such a request was made at a time when the appropriation bills had not been passed except in such form that the Governor could not under his instructions approve them, and in reply to an urgent demand on his part that they should relieve him from his embarrassment and provide for the needs of the Province, the innocence of the Vote of the House disappears and it assumes at once a defiant and contemptuous character. Tested by current events and measured by the situation at that time, many Votes and Resolves, which upon their face bear no evidence of malice, reveal the fact that they are connected with this contest and were prompted by the passions aroused in this prolonged conflict.

If I am not mistaken the extract given below, which is taken from the published Journals of the House, belongs to this class. It is to be found under date of 26 June, 1723. By means of quotations from the writings of contemporaneous authors, and through an analysis of the condition of affairs then existing, I think we can arrive at a fair understanding of what the action of the House meant.

The extract referred to reads as follows: [1] —

"The Theses of the Batchelours to be Graduated at the Commencement, to be held at Cambridge the First Wednesday of July next, being produced in the House, and the House observing the dedication thereof not to be properly Addressed,

"*Voted*, That it is derogatory to the Honour of the Lieut. Governour, who is now Commander-in-Chief of this Province, and the Head of the Overseers of the College, to have the Impression of these Theses go out as they now are,

"And therefore,

"*Ordered*, That the Printer Mr. Bartholomew Green be and hereby is directed not to deliver any of these Theses, 'till they shall be properly addressed."

Col. Shute was then Governor of the Province. He had left Boston the previous December and was then in London. His sudden departure had produced consternation in the House. The Lieutenant-Governor,[2] when asked, was unable to tell the Representatives why the Governor had taken this step. They knew, however, that his presence at Court was a threat to them, and they believed that he was there for the purpose of preferring the charges which he afterwards brought against them. They therefore at once appointed a Committee "to prepare and lay before the House what they think proper to be done in this critical juncture, in their just and necessary vindication at the Court." [3] In their Journal, the Representatives express great surprise at the embarkation of the Governor, and add that it —

"gives this House just ground to suppose that upon his Excellency's arrival at the Court of Great Britain (if bound there) he may endeavor to charge this House in attempting to encroach upon the Royal Prerogative, or coming into some things they have not a right to, by their present happy constitution."

In June, 1723, Shute had not as yet shown his hand, but he was doubtless engaged in paving the way for the seven charges of contumacy which he presented the next year. About this time Neal, the author of the History of New England, wrote to a friend: —

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[1] Given in Quincy's History of Harvard University (edition of 1860), i. 311, 312.

[2] William Dummer.

[3] Hutchinson's History of Massachusetts Bay (edition of 1768), ii. 292.

"The governor shewed me the printed votes with regard to the dedication of the theses of Harvard college, at which I could not but stand amazed. I see no hopes of saving the country unless the next general assembly will disavow the proceedings of the last." [1]

What was there in this punctiliousness on the part of the General Court for the honor of the Lieutenant-Governor that should cause Neal to stand amazed? This attitude towards the presiding magistrate of the Province was not habitual with the House, and one might naturally have expected from a loyalist a welcome for this change of heart, rather than so pronounced an expression of chagrin. If, however, we conceive that the College authorities dedicated the Theses to the absent Governor, and the House took advantage of this to give him a blow, while nominally protecting the rights of the Lieutenant-Governor, who through this absence became the Commander-in-Chief, and the head of the Overseers, we can understand the feelings of Shute and Neal. If we examine the expressions used in the Vote, we shall see that they are in accord with this explanation. It was, then, in all probability, the dedication to Shute that enraged the House.

The language used in the Vote would seem to imply that the essays prepared by the students for their Commencement parts had been printed and were produced in court. No such custom as this ever prevailed. The word "thesis" as used in the record means merely the proposition which the student was to maintain; and that such was the meaning generally attached to it at that time, we may infer from the manner in which Cotton Mather uses the word in the following extract from the Magnalia: [2] —

"At the *Commencement*, it has been the Annual Custom for the *Batchelors* to publish a sheet of *Theses*, pro *virili Defendendæ*, upon all or most of the *Liberal Arts;* among which they do, with a particular Character, distinguish those that are to be the Subjects of the Publick *Disputations* then before them; and those *Theses* they *dedicate*, as handsomely as they can, to the Persons of Quality, but especially to the Gobernour of the Province, whose Patronage the *Colledge* would be recommended unto."

If the suggestion has not been made up to this point that the Vote of the House referred to what we should to-day call the Com-

[1] Hutchinson's History of Massachusetts Bay (edition of 1768), ii. 290, *note*

[2] Magnalia (edition of 1702), Book iv. p. 131.

mencement Programme, this extract must certainly settle that question. The only point of interest that remains to be discussed in connection with the Vote is, How did the House obtain jurisdiction?

For an answer to that, and one that upon the whole seems satisfactory, I am indebted to a suggestion made by Mr. Justin Winsor, — to the effect that it may have been an exercise of the power of control of the Press. The licensing of the Press was one of the powers that under the Charter more logically belonged to the Governor than to the House, but it was one of these powers which they would not quietly permit him to use. Mr. C. A. Duniway, of Harvard University, who has made a careful study of the restraints imposed upon the Press in the days of the Colony and of the Province, writes to me as follows: —

"Such action was quite in accord with old Massachusetts precedents for the control of the Press. Before the taking away of the Colony Charter, the two Houses of the General Court regularly enacted measures for the control of the Press, besides electing Licensers. With the appointment of the Executive by the Crown, control of the Press passed to the Governor — until the House successfully resisted (in 1721) Shute's pretensions to maintain the old prerogative."

If the printer of the Commencement Programme submitted it to the House for approval, under some requirement of his license, then we have an explanation of the manner in which the House got possession of "the Theses."

While it may be claimed that this attempted explanation of the curious entry in the House Journal is based largely upon conjecture, it must also be admitted that in the absence of more complete knowledge of the premises such methods are allowable. The test of their acceptability must be the extent to which they explain the conflicting circumstances with which the event is surrounded.

Mr. Robert N. Toppan reported these facts respecting the —

HISTORICAL SOCIETY OF OLD NEWBURY.

This Society was incorporated on 24 June, 1896. Its object is "to preserve and perpetuate the history of Old Newbury, compris-

ing Newbury, Newburyport, and West Newbury." Its organization, in 1877, is mentioned in Mr. Davis's List of Historical Societies in Massachusetts, printed in the Publications of this Society, I. 51.

In behalf of Mr. JOHN NOBLE, who was unable to remain until the close of the meeting, Mr. HENRY E. WOODS communicated the following letter respecting the libel suit of Knowles *v.* Douglass, upon which Mr. Noble read a paper at the Stated Meeting of the Society in March, 1896 : —

PRIVY COUNCIL OFFICE, WHITEHALL, LONDON, S.W.
9 November, 1896.

MY DEAR SIR : —

In answer to yours of 30th ultimo, I have to say that I have searched our Records and find that the Appeal of

REAR ADMIRAL CHARLES KNOWLES
v.
WILLIAM DOUGLASS (Physician),

was entered on 16 August, 1750, and duly referred for hearing; but the Appeal appears to have been abandoned, as no further steps were taken, and there is no subsequent entry relating to the matter.

Always ready to be of service to you, I am

Yours truly,

THOMAS PRESTON,
Record Clerk.

JOHN NOBLE, Esq., etc., etc.
Supreme Judicial Court, Boston, Mass.

Mr. EDWARD APPLETON BANGS, of Boston, and Mr. WILLIAM COOLIDGE LANE, of Cambridge, were elected Resident Members.

MARCH MEETING, 1897.

A STATED MEETING of the Society was held in the Hall of the American Academy of Arts and Sciences, on Wednesday, 17 March, 1897, at three o'clock in the afternoon, President WHEELWRIGHT in the chair.

After the Records of the previous Meeting had been read and approved, the PRESIDENT announced the death of Mr. GEORGE OTIS SHATTUCK, a Resident Member, and spoke of his high rank in his chosen profession, as evidenced by his election to the Presidency of the Bar Association, a position which he held at the time of his decease.

The Hon. GEORGE S. HALE, having been called upon, paid the following tribute to the memory of Mr. Shattuck:

I cordially respond to your request to add a few words to the expression by this Society of the loss we all recognize in the death of George Otis Shattuck. His life was not eventful, but useful and honorable, and in the words of the familiar hymn "yet blossoms in the dust."

He was born at Andover, 2 May, 1829; educated at the Phillips Academy in that place; graduated, with Professors Charles F. Dunbar, William Watson Goodwin, Henry W. Haynes, and C. C. Langdell, and Dr. Samuel A. Green, at Harvard College in 1851; took his degree of LL.B. in the Harvard Law School in 1854; entered the Suffolk Bar in February, 1855, and became the associate of Peleg W. Chandler in 1856 (continuing until 1870) and then of William A. Munroe. He was a member of the Common Council of Boston in 1862, an Overseer of Harvard College from 1871 till 1880 and from 1885 till his decease, a member of the Massachusetts Historical Society, and President of the Suffolk Bar Association.

He was elected a member of this Society 20 December, 1893.

Mr. Shattuck was not a seeker for official position, but a most valuable member of the community he served and honored. He adds another to the long list of the members of his profession who held very high rank among their associates, and won the confidence, regard, and respect of clients, friends, and courts, but reserved no time from laborious days for permanent evidences and memorials of their knowledge, of their labors and services for the cause of justice and its wise administration, or the result of intellectual cultivation and love of letters. The Lawyer's labors are often the concealed foundation of the Judge's reputation. He was responsive and sympathetic, and received the tribute of affectionate confidence from the younger men who shared his instruction and sympathy.

In his college course Mr. Shattuck won the regard and confidence of that wise man and acute judge of men, Dr. James Walker, while his early association with Peleg W. Chandler, so well known among the last generation of eminent lawyers, was another evidence of his exhibition of the ability and acquirement which secured his prompt and continuous success in a profession which suffers no rival and yields its honors only to unremitting devotion.

Mr. Shattuck married Emily Morris Copeland 15 October, 1857, and leaves one daughter, Susan, the wife of Dr. Arthur T. Cabot.

Mr. Robert N. Toppan then read the following paper on —

THE FAILURE TO ESTABLISH AN HEREDITARY POLITICAL ARISTOCRACY IN THE COLONIES.

An interesting fact connected with the founding of the English Colonies in America was the failure to establish an Hereditary Political Aristocracy in any part of the country. England being monarchical and aristocratic, with many traces of feudalism still existing in the seventeenth century, it would naturally be supposed that the frames of government of the various plantations would be moulded, in substance at least, upon that of the parent state, even if circumstances required slight modifications. The grantors of the different Charters, from Queen Elizabeth to George the Second, were monarchs holding exalted notions of the royal prerogative,

while the grantees in many cases were noblemen of high rank. Although the Charter of 1584 to Raleigh was to one who bore no higher title than that of Esquire, Knighthood having been bestowed upon him later, and the first grant of Virginia, of 1606, contained the names of two Knights only, the second Charter, of 1609, enumerated, among a large number of grantees, eight Earls, one Viscount, eleven Lords, one Bishop, and ninety-six Knights, while the Council first appointed consisted of noblemen and knights almost exclusively, three only of lower rank being admitted. To the list of grantees were added, in 1611–12, the Archbishop of Canterbury and three Earls.[1] The Council being composed almost entirely of titled people, whose sons might become members of the governing body (although it was to be elected in the future by the incorporators), a way seemed to be prepared for the establishment of an hereditary government. The political development, however, which might reasonably have been expected ceased upon the annulling of the Charter in 1624, consequent upon the trouble between the King and the Company, when the Colony became a Royal Province, the Proprietors losing the governing power.

By the Charter of New England, of 1620, the Council was to consist of forty members, including one Duke, two Marquises, six Earls, one Viscount, three Lords, one Baronet, eighteen Knights, and eight Esquires with power of choosing their successors. From this grant an hereditary governing body would probably have grown in time, if the Council for New England had not in turn made a grant of a part of their territory to the Massachusetts Company, in which appear the names of three Knights only, the other grantees bearing no titles. The first Governor chosen under the Royal Charter of 1628–29, which confirmed and enlarged the grant of the Council for New England of the previous year, was a Commoner. From that time on, with the exception of Sir Richard Saltonstall, the Governors and the Assistants were all untitled,[2] until the Charter was annulled, in 1684, when Massachusetts was merged in The Territory and Dominion of New England, and

[1] Ben: Perley Poore's The Federal and State Constitutions, Colonial Charters, and other Organic Laws of the United States, ii. 1904.

[2] Henry Vane, elected Governor in 1636 partly on account of his father's high social position in England, was not knighted until his return to England.

eight years later became a Royal Province as Virginia had become more than sixty years before, and was made dependent upon the Crown.

During the Colonial period, lasting more than fifty years, two events took place, showing the determination of the colonists to thwart any attempt to introduce legally privileged classes into the body politic. In 1634 an offer was made to the Massachusetts authorities by Lord Saye, Lord Brooke, and others of rank to transport themselves with their families and property to the Colony, provided there should be created two distinct ranks in the community, — one consisting of Gentlemen, who should sit during life in the Colonial Parliament as a separate house, the privilege descending to their heirs, and the other consisting of Freeholders. The Gentlemen were to vote in person, while the Freeholders, whose qualification for suffrage was to be property and not membership in a Congregational Church, were to elect Deputies. This proposition was not favorably received.[1] In his answer to Lord Saye, in 1636, Rev. John Cotton acknowledges that the Scriptures approve of a monarchic-aristocratic government, but not of an hereditary governing aristocracy. Many heirs of noble families are degenerate and unfit for public office; it is therefore evident that the Almighty never designed that the governing power in a state should be committed to such hands. The true aristocracy, according to his opinion, were the ministers of the churches and the qualified magistrates elected by the Freemen. To such can be safely intrusted the guidance of a Commonwealth, the civil rulers acting in civil matters, and the clergy as teachers influencing public opinion. Mr. Cotton defends also the law of 1631 restricting freemanship to church-members as being conducive to the best interests of the state.[2]

One temporary result followed Lord Saye's proposal. In 1636 the General Court voted to establish a standing Council for Life, and on the twenty-fifth of May of the same year John Winthrop and Thomas Dudley were made members of it, who, however, be-

[1] Winthrop's History of New England (edition of 1853), i. 160, 161; Hutchinson's History of Massachusetts Bay (edition of 1765), i. 490–495.

[2] "Hereditary honors both nature and scripture doth acknowledge, but hereditary authority and power standeth only by the civil laws." — Hutchinson's History of Massachusetts Bay (edition of 1765), i. 493 (*Appendix*).

came Governor and Deputy Governor by annual elections. In May, 1637, John Endicott was also made a member, taking his seat the next year in virtue of his life membership; but in 1639, the Freemen reverting to their former custom of annual elections for all magistrates, Endicott became an Assistant again by his election that year.[1]

The second event was the effort made in 1640 by some of the ministers to obtain certain legal privileges for the clergy as a separate class, the ecclesiastical authorities in other countries enjoying at that time important rights and immunities. By the arrival of Winthrop in 1630, as head of the Colony, the two ministers of Salem and the one of Charlestown had lost their positions as Assistants which they had held under Endicott, and the custom was established of not electing the clergy to any public office.[2] The present attempt was so completely defeated that the subordination of the clergy to the civil power has not since been seriously questioned. Winthrop gives the following account of the movement under date of October, 1640: —

"The elders had moved at a General Court, before, that the distinction between the two jurisdictions might be set down, that the churches might know their power, and the civil magistrate his. They declared that the civil magistrate should not proceed against a church-member before the church had dealt with him, with some other restraints which the court would not allow of."[3]

Four years later the Elders of the churches, being asked officially "whether our government be a pure aristocracy or mixt with a democracy," replied, "our answer is not a pure aristocracy but mixt of an aristocracy and democracy in respect of the General Court."[4] This feeling that a portion of the governing body was an aristocracy, which might lead ultimately to an hereditary nobility, did not become entirely extinct until the breaking out of the Revolutionary War. Governor Hutchinson writing before there was any prospect of a separation of the colonies from the

[1] Massachusetts Colony Records, i. 167 *et al.*; also Winthrop's History of New England (edition of 1853), i. 363, 364.

[2] Felt's Ecclesiastical History of New England, i. 135.

[3] Winthrop's History of New England (edition of 1853), ii. 19.

[4] Massachusetts Colony Records, ii. 95, — 13 November, 1644.

mother country says, "the colonies are not ripe for hereditary honours, otherwise, there seems no more room for exception there than in Ireland."[1] Down to 1773 the students of Harvard College were placed in the Catalogue according to their social rank, while for many years the title of Sir was applied to those who having taken their first degree were preparing for the degree of Master of Arts.[2]

By the Confirmatory Charter of 1639 granting the Province of Maine to Sir Ferdinando Gorges, Knight, the governing power was conferred upon him, his heirs and assigns, with authority to erect territorial manors, and to introduce the Church of England with its extensive privileges and hierarchy, which was to be permanently established as a State Church. Sir Ferdinando, as Lord and Proprietor, was to possess all the feudal rights attached to the Bishopric of Durham.[3] The civil war in England, the death of Sir Ferdinando, and finally the purchase by Massachusetts of the territory of Maine prevented the establishment of a feudal form of government in New England.

The Royal Scotch Charter of 1621 to Sir William Alexander, Knight, granting the Lordship and Barony of Nova Scotia, gave the power of conferring favors and honors, which was confirmed by the Charter of 1625. By this latter grant authority was given not only to confer honors and dignities but also to "erect prelates, archbishops, bishops, etc." Baronets of Nova Scotia were created enjoying a certain precedence in Scotland, the total number of whom was not to exceed one hundred and fifty. The names of one hundred and thirteen, with territorial grants, are recorded from May, 1625, to the seventeenth of December, 1638. The scheme

[1] History of Massachusetts Bay (edition of 1765), ii. 9. Hutchinson considered the House of Lords the bulwark of the British Constitution, curbing both the Crown and the people.

[2] Sibley's Harvard Graduates, i. 17, *note*. For some years the title Mr. was given in the records to the Assistants of the Colony, although the Governor Deputy Governor, and some of the Assistants were styled Esquires. This was followed by a period when the title Gentleman was accorded to all of these; and this again was followed by the custom, lasting down to the overthrow of the first Royal Charter, of naming them Esquires. See Massachusetts Colony Records, *passim*.

[3] James Phinney Baxter's Sir Ferdinando Gorges and his Province of Maine (Prince Society's Publications), ii. 127.

of permanent settlement, however, was destroyed by the results of the war between England and France, and the cession of territory to the latter power in accordance with the treaty of 1632.[1]

The grant of New Hampshire by the Council for New England to Captain John Mason conferred only a title to the soil, the governing power remaining in the Crown.

The grantees in the Patent for the Providence Plantations from the Earl of Warwick and the Parliamentary Commissioners, in the subsequent Charter from the King to Rhode Island and Providence Plantations, and in the Royal Charter to Connecticut, whose constitutions were in form similar to that of Massachusetts but more democratic in spirit, were all Commoners.

The Dutch, who had been considered by the English intruders in America, having been conquered, a Royal Duke became Proprietor of the Province of New York by the grant of 1664 from the King. To the Duke of York, his heirs, assigns, and successors, was committed the government. Before the conquest the territorial privileges, resembling the manorial rights in England which had been bestowed upon a few Proprietors for the purpose of encouraging immigration, had been bought back by the West India Company, with the exception of the rights acquired by the Van Rensselaer family, whose privileges as Patroons were acknowledged by the English authorities.[2] Under the Ducal and under the Royal Governors, — when, by the accession of James the Second to the throne, New York became a Royal Province, — a manor called Grimstead was erected in 1664,[3] the Livingston manor in 1686,[4] the manor of Morrisania 6 May, 1697,[5] and the Van Cortlandt manor in the same year.[6] There is also a trace of a manor called St. George's.[7] The owners of the manors, to which was attached in time the right of representation, were too few to form a political body.

[1] Rev. Edmund F. Slafter's Sir William Alexander and American Colonization (Prince Society's Publications), p. 233; Rymer's Fœdera, xix. 361; Traité entre le Roi Louis XIII. et Charles Roi d'Angleterre pour la Restitution de la Nouvelle France, la Cadie et Canada, 1632.

[2] Schuyler's Colonial New York: Philip Schuyler and his Family, i. 12 *et al.*

[3] New York Colonial Documents (edition of 1853), iii. 72 *et al.*

[4] Schuyler's Colonial New York, i. 275. *Cf.* New York Colonial Documents, iv. 823.

[5] New York Colonial Documents, ii. 619 *note.*

[6] *Ibid.* iv. 823; also Schuyler's Colonial New York, i. 199.

[7] New York Colonial Documents, iv. 829.

New Jersey, a part of the territory belonging to the Duke of York, was ceded to Lord Berkeley and Sir George Carteret, and was soon divided into New East Jersey and New West Jersey. The twenty-four Proprietors of New East Jersey, including in their number the Earl of Perth and the Earl of Melfort, retained a portion of the governing power; but New West Jersey, of which William Penn was one of the Proprietors, was governed in a more democratic way by Representatives chosen by the inhabitants. Both Provinces were surrendered to the Crown in 1702.[1]

To William Penn, the son of a Knight, his heirs and assigns, was committed, in 1681, the government of Pennsylvania, as "true and absolute Proprietaries," although the laws of the Province were to be enacted with the consent of the Freemen.[2] The privilege of erecting manors was also given. The laws established under the liberal leadership of Penn favored the political power of the people, while the troubles between the Crown and Penn, owing mainly to disputes concerning admiralty jurisdiction, and the non-execution, as was alleged, of the Acts of Trade and Navigation, made the rights of the Proprietary unstable. The few estates, called manors, belonging to the Penn family did not possess any distinct manorial privileges.[3]

By the Charter of 1632 granting the Province of Maryland to Lord Baltimore, his heirs and assigns, a feudal state was created. All the rights pertaining to the Bishopric of Durham were conferred. Manors could be erected by the Lord Proprietary, and titles bestowed, provided their designations were not the same as those used in England. The design of founding a territorial aristocracy, favorably commenced,[4] was obstructed and finally defeated by the disputes between the King and Lord Baltimore, partly political and partly commercial, and by internal

[1] Leaming and Spicer's Grants and Concessions of New Jersey, p. 609; also New Jersey Archives, ii. 462.

[2] Hazard's Annals of Pennsylvania, p. 489.

[3] William H. Egle's History of Pennsylvania, p. 281 *et al.*

[4] Maryland Archives, i. 20. An Act was passed in March, 1637–38, against "aliening" manors; also an Act passed to establish baronies. The manors of Bridgewater, of Talbot, of Arundell, of Lady Baltimore and others mentioned in the Maryland Archives appear to have been tracts of land so designated without possessing any special privileges. See also *Ibid.* vi. 134, 205 *et al.*

troubles between the Protestants and Roman Catholics, and by the feeling of independence among the Freemen represented in the Assembly.

The Lords Proprietors in the first grant of Carolina, of 1663, consisted of one Duke, one Earl, three Lords, two Baronets, and one Knight, who were to possess all the feudal rights belonging to the Bishopric of Durham; the laws, however, were to be enacted, when possible, with the assent of the Freeholders. Authority was given to confer titles of honor, which were to be different from those in England, and manors could be erected. The Charter of 1665, enlarging the first grant, gave power to create Baronies. This was followed by the Fundamental Constitutions of 1669, attributed to John Locke, in which the reason for planting a feudal frame of government is given that "it may be made most agreeable to the monarchy under which we live and that we may avoid erecting a numerous democracy." All the details of the plan were carefully drawn, in which there was to be a complete gradation of ranks based on the ownership of land and on family descent. There were to be Signories, Baronies, and Manors, with an hereditary governing nobility whose titles of Palatine, Landgrave, and Cazique were unfamiliar to English ears. A court was to be established to decide upon questions of precedence, of heraldry and pedigree. This structure of government, having no foundation, fell by its own weight. "The year 1693 is the date usually assigned to that event," although as late as 1702 the Lords Proprietors still sought feebly to enforce the Constitutions.[1] Having surrendered their rights, their rule practically ended in 1728, although a Royal Governor did not enter upon his duties until three years later.

All the Trustees appointed by the Charter of Georgia, in 1732, were Commoners except Viscount Perceval, who became the first President of the Corporation. Shortly before the expiration of the time when, by a clause in the grant, a change of government could be effected by the Crown, the Trustees surrendered their rights and the colony became a Royal Province in 1752.[2]

From the brief survey here given of their political conditions it is seen that from various circumstances there was not established

[1] Colonial Records of North Carolina, i. Prefatory Notes, p. xviii.

[2] Historical Collections of Georgia, by George White, p. 20.

in any of the colonies or provinces a political organized body which could act as a barrier between the people and the Crown when feelings of hostility began to arise leading ultimately to a separation from the mother country.

Mr. Henry H. Edes, having been called upon, spoke as follows: —

Mr. President, — I have recently discovered an unpublished letter of President Dunster, which I now have the pleasure of communicating to the Society for publication in our Transactions. This paper has been preserved in a family long and honorably connected with Harvard College, and with the family of its first President. It belongs to Miss Theodora Willard,[1] of Cambridge, who inherited it from her father, the late Robert Willard, M. D., of the Harvard Class of 1860; and by her kind permission I am privileged to bring its contents again to the public eye after a lapse of nearly two hundred and fifty years.

The letter is wholly in Dunster's handwriting, and fills two pages of a small folio sheet $12\frac{1}{8} \times 7\frac{7}{8}$ inches in size. It is addressed to a Committee of the General Court, and bears the date of December, 1653. Among the interesting matters stated or referred to in the letter are, the date of Dunster's arrival in New England; the erection of the First College Building at Cambridge, and the names of the persons having charge of the undertaking; Dunster's own part in this work of construction; a partial description of the Building itself; the date when the students first came into Commons; and a summary of Dunster's varied and valuable services to the College, other than of instruction. The letter also affords a glimpse of life at Harvard College during the first decade of its existence.

Dunster's arrival in New England, his residence in Boston at

[1] Major Simon Willard, who arrived in Boston in May, 1634, was thrice married, his first wife having been Mary Sharpe, his second wife Elizabeth Dunster, and his third wife Mary Dunster. Miss Willard's descent from him was through Samuel (H. C. 1659), Vice-President of the College, 1700–1707; John (H. C. 1690); Samuel (H. C. 1723); Joseph (H. C. 1765), LL.D., President of the College, 1781–1804; Joseph (H. C. 1816), and Robert (H. C. 1860), M. D. See Willard Memoir, pp. 350, 351, 365 *et al.*

the corner of Washington and Court Streets, where the Ames Building now stands; his membership in the Ancient and Honorable Artillery Company; his call to the Presidency of Harvard College; his devotion to the interests of that Seminary; his resignation; his retirement to Charlestown and, later, to Scituate, where he died, and his burial in Cambridge,[1] are facts too familiar to be dwelt upon here. There are, however, some incidents in Dunster's career which may properly be referred to in this connection.

It is an interesting circumstance that Dunster should have been selected to be the first President of the College which Harvard founded. Both were comparatively young men for such service as they rendered to the cause of higher education; both were graduates of the University of Cambridge, at about the same time, — Dunster taking his B. A. at Magdalen College in 1630, and Harvard his first degree at Emmanuel in 1631; and both were dissenting ministers. Whether they were friends at the University, and whether that friendship, if it existed, influenced the choice of the governors of the College in the selection of Dunster to start the new Institution on its glorious career, we probably shall never know; but it is interesting to recall these incidents in the lives of pioneers in the propagation of Academic learning in New England. Of Dunster's fitness for the office he adorned there is abundant evidence. An honored son of Harvard has said that he was "a man so eminently qualified, by his learning, his ability, and his

[1] An account of the opening of Dunster's grave in the old Cambridge Cemetery, 1 July, 1846, is printed in Palfrey's History of New England, ii. 534, *note;* further details, including an account of the discovery of the grave, are in Chaplin's Life of Henry Dunster, pp. 225–230. At that time the Corporation renewed the tablet over the tomb. This last tablet having been broken into several pieces, and the vault being in need of repair, a few of the graduates of the college, with the consent of the President and Fellows, have recently caused the tomb to be repaired, and have placed over it a slab of North River stone, into which the fragments of the old tablet have been set in cement. The work has been done at the expense of David P. Kimball of the Class of 1856, Francis H. Brown and Franklin Haven of 1857, Charles P. Bowditch of 1863, William L. Richardson of 1864, Heman W. Chaplin of 1867, Amory A. Lawrence and Otis Norcross of 1870, Charles M. Green of 1874, and Grenville H. Norcross of 1875. *Cf.* Paige's History of Cambridge, pp. 266–269, where it is maintained that the grave is not that of Dunster, but that of the Rev. Jonathan Mitchell, who succeeded the Rev. Thomas Shepard in the pulpit of the Cambridge Church, and who wrote an Elegy on Dunster; and Eliot's Sketch of the History of Harvard College, pp. 15 and *note*, 140, where the Latin epitaph, written by Charles Folsom in 1846, may be read.

virtues, for the office of president, that he seems to have been placed in it at once, and by a sort of acclamation and general consent." [1]

Besides the multifarious duties and activities of Dunster, which are enumerated in the letter I hold in my hand, and which may well challenge the admiration of his indefatigable and latest successor, he had the management of the Press during nearly the whole term of his Presidency; [2] and in 1650 he brought out "an improved edition of the Bay Psalm Book, . . . with the assistance of Mr. Richard Lyon, who came from England to reside at Cambridge, as private tutor to the son of Sir Henry Mildmay," [3] and who was a member of Dunster's household.

Dunster was also deeply interested in the conversion of the Indians, and actively supported Thomas Mayhew and the Apostle Eliot in their labors among the natives, early declaring "that the way to instruct the *Indians* must be in their *owne* language, not *English;* and that their language may be perfected." [4]

In 1653 Dunster created intense excitement in the Colony by publicly declaring his opinions on the subject of infant baptism. The bigotry and intolerance of the Colonists of the Bay, and their dread of the increasing influence of the Baptists, found quick expression through the General Court in the form of an Order, passed on the tenth of September, to inquire into "the present condiċon of the colledge at Cambridge." The Committee appointed to that service was clothed with full powers "to examine the state of the colledge in all respects," — the special matters to be inquired into being set forth in the Order at length, and with much particularity. There can be no doubt that Dunster had before him a copy of this Order when he wrote the letter which I am about to communicate, and that he strove, in a meek and gentle spirit, to comply with the wishes of the Court and at the same time to remind them of the hardships he had endured in the performance of his arduous duties. Neither his faithful services nor his saintly character, however, availed to stem the tide of persecution, [5] which rose against him so rapidly that he was forced to resign

[1] Eliot's Sketch of the History of Harvard College, p. 8.

[2] Middlesex County Court Records, 1 April–25 June, 1656, i. 77, 83, 87, in Thomas's History of Printing (edition of 1810), i. 229, 458–466.

[3] Palfrey's History of New England, ii. 534, *note*. The will of Sir Henry Mildmay of Graces mentions no son William.

[4] Lechford's Plain Dealing (Trumbull's edition), pp. 122, 123, and *notes*.

[5] See Eliot's Sketch of the History of Harvard College, p. 15.

his office, — first on the tenth of June, and finally on the twenty-fourth of October of the following year.

The Order of the General Court was in these words: —

Colledge comittee.

This Court, being informed that the present condic̃on of the colledge at Cambridge calls for supply, doe order, that Cambridge rate for this yeare, now to be collected, be pajd into the steward of the colledge, for the discharge of any debt due from the countrje to the sajd colledge; and if there be any ouerplus, to be and remajne as the colledge stocke; and for further clearing and setling all matters in the colledge in reference to the yearely maintenance of the præsident, ffellowes, and necessary officers thereof, and repayring the howses, that so yearely complaints may be prevented, and a certajne way setled for the due encouragement of all persons concerned in that worke, doe hereby appointe Mr Increase Nowell, Capt̃ Daniell Gookin, Capt̃ Jno Leueret, Capt̃ Edward Jn^o^son, and Mr Edward Jackson,[1] or any three of them, to be a com̃ittee to examine the state of the colledge in all respects, as hereafter is expressed, Mr Nowell to giue notice of the time and place of meeting. 1. First, to take accompt of all the incomes of the colledge proffitts arising due to the officers thereof, either by guifts, revenewes, studdjes, rents, tuitions, com̃encements, or any other proffits arising due from tjme to tjme, as neere as may be, since the præsident vndertooke the worke.

2. To examine what hath binn pajd and disbursed, either for buildings, repay̆ings, or otherwise, pajd and receaved annually for the maintenance of the præsident, ffellowes, and other officers thereof.

3. To consider what hath binn yearely receaved by the præsident out of any incomes and proffitts, for his oune vse and majntenance, (as neere as convenjently may be,) euer since he came to the place of præsident: also what allowances yearely haue binn made to the ffellowes and other officers.

4. To weigh and consider what maybe fitt for an honnorable and comfortable allowance annually, for the præsident, heretofore and for the future, and how it may be pajd heereafter.

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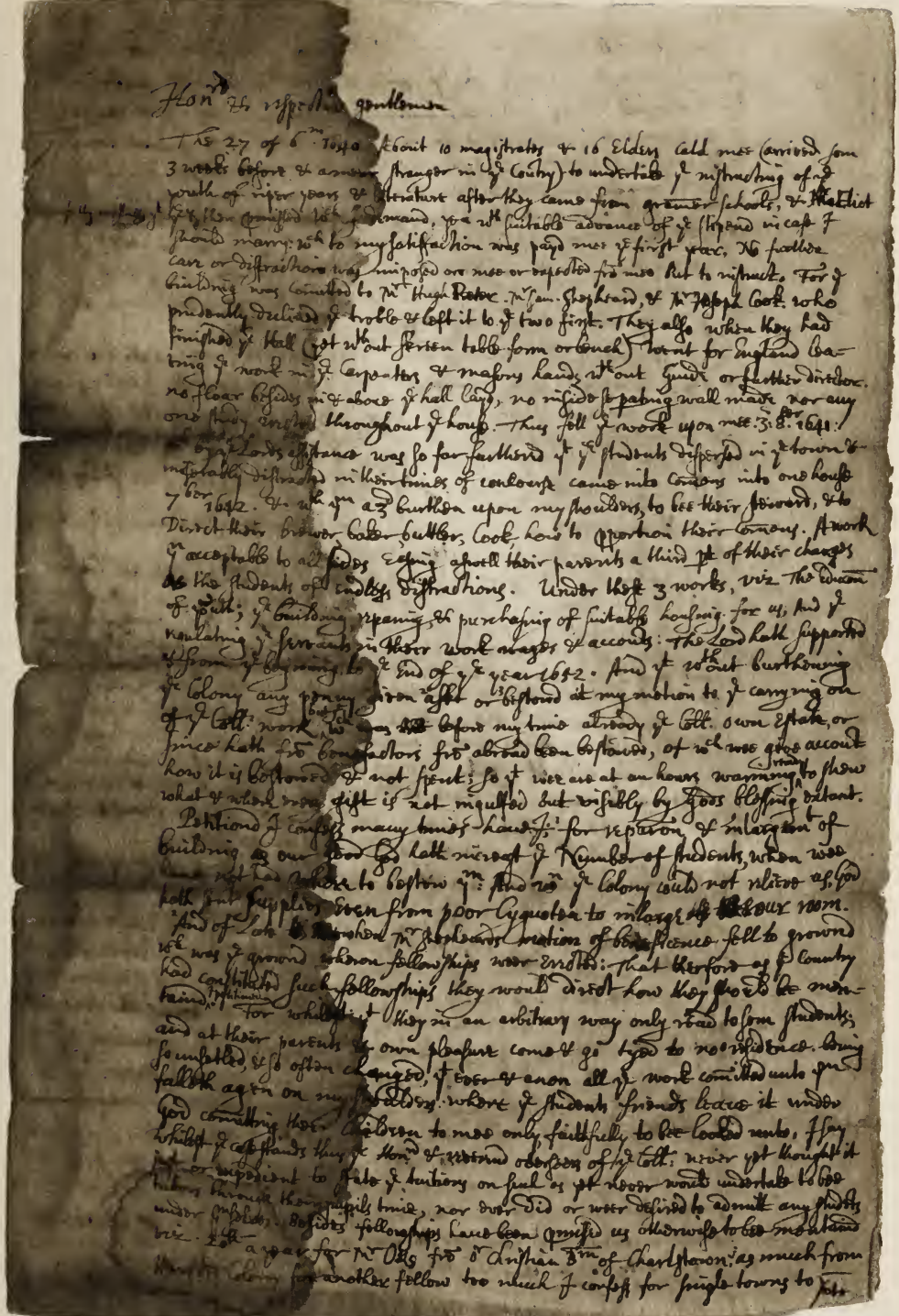
[1] Edward Jackson was a generous benefactor of the College, and had already served, with Increase Nowell and others, on a Committee which settled Thomas Welds's account 25th 8th month, 1651. He was an honored citizen of Cambridge Village (Newton) and sat in the General Court sixteen years, between 1647 and 1676. He died 17 June, 1681, *æt.* 79, leaving a large estate. See Quincy's History of Harvard University (edition of 1860), i. 458, 474, 506, 512, 513; Massachusetts Colony Records, *passim;* Jackson's History of Newton, pp. 330–333; and Paige's History of Cambridge, p. 593.



Engraved for The Colonial Society of Massachusetts
from the original in the possession of
Miss Theodora Willard.

undertake, if all Massachusetts Colony should [illegible] 20l (besides what formerly) towards to contribute to myself, to make good ye [illegible] of ye Honrd Magistrates & reverend Elders for their faithfull & fatherly care to ye Country in reference to ye Education of youth & their great & future weal in ye Churches & Commonwealth. But a fault in ours whose fashion & modest demand, hath made it fall out of mind of any such thing ye Hon. neither have I been lucky to get witness only ye may inquire of Mr Eliot if he can testify this is a truth, wch hence forth shall discharge my part of non for truly I have cleared my conscience & I have not feigned a false claime. And ye country truly understands ye case. ye main is this.

1. Of all ye receipts & disbursements of ye country from first, to last 10br 1652. hath been trusted to my fidelity & care to manage for you in reference to ye Colt: I have given an account yearly to ye Honrd Overseers, viz. March & last 1652 & all lost wasted or diminished by me, with I do [illegible] to make good all things [illegible] by Gods mercy while under my hand & trust I was entrusted with.

2. Some hundreds of pounds gifts for other places therein also ye Lord's Gifts accord.

3. By my work ye country can now make use of further good evidence, hath put these upon former & these have - - - - -

4. By virtue of ye Comission ye Lord have taken an account of ye personall Estates ye Lord himself hath entrusted me: I receive it hath been cast in upon me from sundry persons coming out of other Colonies, Islands, & countries, whether bound for others. To ye inhabitants of wch places we are also justly liable to make account for it hath been for their receiving [illegible] of persons & weight. And how it will stand wth Gods & the countries [illegible] to make good these premises by others to me.

5. All rentall grounds & other workes [illegible] ye Colt: are so satisfied & paid ye none of ye shall ask any thing save of custome, wch if sought for it we have not rent ye country to Colt. [illegible] nor yet Colledge: but [illegible] thereunto belonging pay shall leave it before hand above 100. besides all manner of gifts & [illegible] mentioned in accounts.

The premises considered, how [illegible] Gentlemen of faithfull Commissioners, I have thus [illegible] wch I humbly pray ye further

1 To inform me faithfully if ye [illegible] to any person or society in reference to ye [illegible]

2 To [illegible] ye Case to ye court according to ye evidence & faithfulness & ye neither ye Colony may suffer dishonr nor myself be overburthened, & ye new may never be put to [illegible] more in place of old court for a pecuniary benefit

3 That if ye can [illegible] matter of nothing a Commissioner [illegible] upon ye Colt. [illegible] willed pleased to take in ye advise of Accademical ye as Mr Norton & for ye forming thereof [illegible] for ye present Now. Or else at least hear such as I have here follows [illegible] Colt:

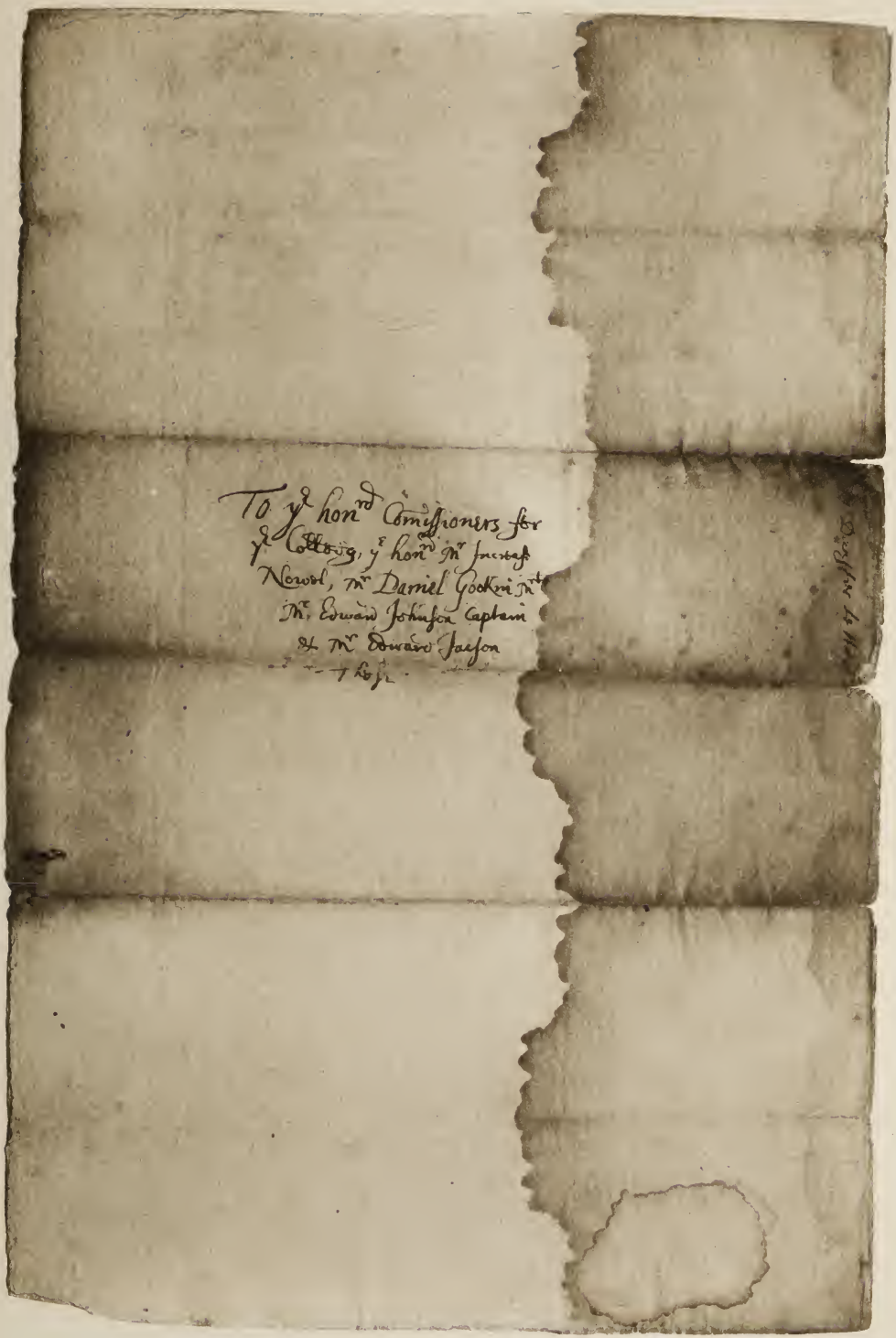
4 That ye Commissioners will advise about a better way to set ye Rent of Buildings in repair & how for ye present or whatever rent may have supply to answer pay for ye necessary repayrs who have engaged for, in reference to Boards, shingle glass nayles &c

5 That by letters myself some other at least one may be joyned to look to these country accounts & yt from year to year giving up to ye Hon Magistrates at our County Courts there may be an issue of [illegible] brought forth. So shall I rest

The main of ye premises pleaded in 10br 1653.

ye cheerfully to [illegible] which I have good

[illegible] Dr Leverett



To ye honrd Comissioners for
ye Colledge, ye honrd Mr Increase
Nowel, Mr Daniel Gookin Mrt
Mr Edward Johnson Captain
& Mr Edward Jacson
- these -

5. To consider what noumber of fellowes may be necessary for carying on the worke in the sajd colledge, and what yearely allowance they shall haue, and how to be pajd.

6. To direct some way how the necessary officers, as steward, butler, and cooke, maybe provided for, that so the schollers comons may not be so short as they now are occasioned thereby.

7. To take cognizance of all and euery matter or thing concerning the sajd colledge, in reference to the welfare thereof in outward things, and to present a way how to regulate and rectify any thing that is out of order.

8. To examine what somes haue binn, and of late are, pmised by seuerall tounes and persons for the vse of the colledge, and to giue order for the collectjon thereof, and propose a way how such monjes may be improoved for the best bennefitt of that society for the future; and this comittee are heereby authorized wth full power to act in all the premises, and to make retourne of what they doe to the next Court of Election, to be confirmed, if they shall judge meete.[1]

Dunster's letter, or "memorandum," which, it will be observed, is dated three months after the passage of the Court's Order, is as follows: —

[1] Honrd & reſpected gentlemen

The 27 of 6^{m} 1640 About 10 magiſtrates & 16 Elders cald mee (arrived[2] ſom 3 weeks before & a meer ſtranger in ye Coūtry) to undertake ye inſtructing of ye youth of riper years & literature after they came from gramer ſchools, & Mr Eliot fully wittneſs[es?] y^{t} y^{e}y then pmiſſed wch I demand[ed?], yea wth ſuitable advance of y^{e} ſtipend in caſe I ſhould marry:[3]

[1] Massachusetts Colony Records, iv. (Part I.), 178–180. This Order was also recorded in the House Journal, 14 September, 1653. See *Ibid.* iii. 331, 332.

[2] It thus appears that Dunster arrived in Boston early in August, 1640, not "in the autumn of 1640," as stated by Quincy in his History of Harvard University (edition of 1860), i. 14. *Cf.* Johnson's Wonder-Working Providence (Poole's edition), p. 162.

[3] Dunster married (1) Elizabeth (Harris), widow of the Rev. Jose (or Josse) Glover, 22 June, 1641. As the spelling and pronunciation of Glover's given name have been the subject of much discussion, it is not inapposite to call attention to the fact that, to this day, Jŏsse — pronounced as one syllable — is the common contraction for Joshua in Lancashire, and, perhaps, elsewhere in the north of England. *Cf.* Glover Memorials, p. 564; New England Historical and Genealogical Register, xxx. 26–28; Sibley's Harvard Graduates, i. 208, 209; and Paige's History of Cambridge, pp. 559, 560.

wch to my ſatiſfaction was payd mee ye firſt year. No further care or diſtraction was impoſed on mee or expected frō mee but to inſtruct. For ye building was cōmitted to Mr Hugh Peeter, Mr Sam. Shepheard, & M^r^ Joſeph Cook,[1] who prudently declined ye troble & left it to ye two firſt. They alſo when they had finiſhed ye Hall (yet w^th^out ſkreen table form or bench) went for England[2] leaving ye work in ye Carpenters & maſons hands w^th^out Guide or further director. no floar beſides in & aboue ye hall layd, no inſide ſepating wall made nor any one ſtudy erected throughout ye houſe. Thus fell ye work upon mee. 3^d^ 8^ber^ 1641: wch by ye Lords aſſiſtance was ſo far furthered y^t^ y^e^ ſtudents diſperſed in ye town & miſerably diſtracted in their times of concourſe came into cōmons into one houſe 7^ber^ 1642. & wth y^m^ a 3^d^ burthen upon my ſhoulders, to bee their ſteward, & to Direct their brewer, baker, buttler, Cook, how to ꝑportion their cōmons. A work y^n^ acceptable to all ſides eaſing afwell their parents a third ꝑt of their charges as the ſtudents of endleſs diſtractions. Under theſe 3 works, viz The educōn of youth; ye building, reparing, & purchaſing of ſuitable houſing for us; And ye regulating y^e^ ſervants in their work wages & accoūts: The Lord hath ſupported us from ye begining; to ye end of ye year 1652. And y^t^ w^th^out burthening ye Colony any penny [1] given [2] aſkt or [3] beſtowd at my motion to ye carrying on of ye Coll^t^: work but y^t^ wch was before my time already ye Coll^t^. own eſtate,

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[1] Joseph Cooke was a prominent citizen of Cambridge, of which he was a Commissioner, Selectman, and Town Clerk. He lived on the east side of Holyoke Street near Holyoke Place, and represented the town in the General Court six years. Under date of 30 October, 1651, the records of that body contain the following entry: —

"Itt is ordered, that Capt Daniell Gooking, Mr Joseph Cooke, or Mr Henry Dunster, shallbe, and is heereby, impowred to marry Mr John Apleton and Mrs Priscilla Glover, who have been published at Cambridge, according to lawe." (Massachusetts Colony Records, iv. (Part I.), 74).

Priscilla Glover was the youngest daughter of the Rev. Jose (or Josse) Glover, consequently Dunster's step-daughter. Paige tells us that Cooke went to England in 1658, and that it is not known that he returned to America. See History of Cambridge, pp. 40, 513, 560; and Massachusetts Colony Records, i. 275.

[2] Hugh Peter sailed for England 3 August, 1641; and Samuel Shepard was excused from further service as a member of the General Court, 18 October, 1645, "being to goe for England," where both joined the Parliamentary Army. See Winthrop's History of New England (edition of 1853), ii. 37, 38; Massachusetts Colony Records, i. 275, iii. 52; and Paige's History of Cambridge, pp. 653, 654, where a full account of Major Shepard, who was a half-brother of the Rev. Thomas Shepard, the elder, may be read. See also *post*, p. 454.

or ſince hath frō benefactors frō abroad been beſtowed, of wch wee give accoūt how it is beſtowed & not ſpent; ſo y^t^ wee are at an hours warning ready to ſhew what & where every gift is not ingulfed but viſibly by Gods bleſſing extant.

Petitiond [1] I confeſs many times haue I; [1] for repar̄ōn & inlargem^t^ of building as our good God hath increaſt ye Number of ſtudents, when wee haue not had where to beſtow y^m^: And w^n^ ye Colony could not relieve us, God hath ſent ſupplies even from poor Cyguotea [2] to inlarge our room.

[2] And of late when Mr Shepheards motion of beneficence [3] fell to grownd wch was ye grownd wheron fellowſhips weer erected: That therfore as ye Country had conſtituted ſuch fellowſhips they would direct how they ſhould bee mentaind I petitioned. For whileſt y^t^ they in an arbitrary way only read to ſom ſtudents; and at their parents & own pleaſure come & go tyed to no reſidence . being ſo unſetled, & ſo often changed, y^t^ ever & anon all ye work com̄itted unto y^m^ falleth agen on my ſhoulders: where y^e^ ſtudents friends leaue it under God com̄itting their children to mee only, faithfully to bee looked unto, I ſay whileſt ye caſe ſtands thus ye Hon^rd^ & reverend overſeers of ye Coll: never yet thought it juſt or expedient to ſtate ye tuitions on ſuch as yet never would undertake to bee tutors through their pupils time, nor ever did or weer deſired to admitt any ſtudēts under y^m^ſelves. Beſides fellowſhips haue been ꝑmiſſed us otherwiſe to bee mentaind viz. 20^lb^ a year for Mr Oks [4] frō o^r^ Chriſtian B^rn^ of Charlſ-

[1] See Plymouth Colony Records, ix. 93–96, 216, 217. The Records of the Commissioners of the United Colonies fill Volumes ix. and x. of the Plymouth Colony Records, where they are printed in full from the contemporary manuscript copy which belonged to the Old Colony.

[2] "Cyguatea or Cigoteo, but known also as Eleutheria, Eleuthera, Ethera, Alabaster, and the Bahama Island," also as Segotea. The circumstances attending this gift and the occasion of it have been fully told by Mr. Sibley. The persecuted people of this Island sent to the College, in 1658, another gift of £124, "out of their poverty." See Sibley's Harvard Graduates, i. 139; and Quincy's History of Harvard University (edition of 1860), i. 507, and *note*.

[3] This doubtless refers to the plan for maintaining poor scholars at Cambridge submitted by the Rev. Thomas Shepard to the Commissioners for the United Colonies, 30 September, 1644. See Plymouth Colony Records, ix. 20, 21; and Quincy's History of Harvard University (edition of 1860), i. 15 *et seq.*

[4] The Rev. Urian Oakes (H. C. 1649), afterwards President of the College, is doubtless here referred to. His name appears in the Quinquennial Catalogue (pp. 10, 35) in the lists of Fellows and Tutors followed by a query; and

town; as much from Harford[1] Colony for another fellow too much I confeſs for ſingle towns to —— *verte* [2] undertake, if all Maſſachuſets Colony find y^t ye 3^d 20^lb (beſides ye ferry) is too heavy to cõtribute to myſelf, to make good ye word & ꝑmiſs of ye Hon^rd magiſtrates & reverend Elders for their faithful & fatherly care to ye country in referrence to ye educõn of youth for their p^rſent & future weal in ye Churches & Comonwealth: But ye fault is ours whoſe ſeldom & modeſt demand, hath made it fall out of mind y^t any ſuch thing is due . neither haue I been buiſy to ſeek wittneſs only y^w may inquire of Mr Eliot if y^w ſee good; to ye Elders of Lin or any y^t way I haue not ſpoken, nor can I tel y^t I ſhal: for verily this is a burthen, wch henceforth I ſhal diſcharge my ſprt off w^n I haue cleared my iñocency y^t I haue not faigned a falſe claime. And w^n y^e contry truely underſtands y^e caſe . w^e in ſum is This.

Of all y^t y^e country from firſt, to y^e laſt 10^ber 1652 hath betruſted to my fidelity & care to manage for y^m in refference to y^e Coll: I haue given y^w an account[2] p^rſented to y^e Honr^d Overſeers March y^e laſt $165\frac{2}{3}$ nothing loſt waſted or diminiſhed by mee but wch I do undertake to make good all being extant by Gods mercy while under my ſole ſtewardſhip all was.

2 Of ſome hundreds of pounds gifts frõ other places theroñ alſo y^w haue y^e like accoũt.

3^ly Of y^e work y^e contry cald mee unto & w^t further Gods inevitable ꝑvidences hath put mee upon y^w theer & Heer haue - - - - -[3]

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his term of service — 1650 to 1652 — is also questioned. Dunster's statement, taken in connection with the entry in the Steward's Account Book (i. 11, 12), apparently removes these doubts. There was a close friendship between Oakes and the younger Thomas Shepard, who was settled later over the Charlestown Church as colleague with the Rev. Zechariah Symmes. *Cf.* Sibley's Harvard Graduates, i. 173, 548.

[1] It is not improbable that the other "fellow" to be thus maintained by the Hartford, Connecticut, Colony was a classmate of Oakes, — Samuel Eaton, eldest son of Gov. Theophilus Eaton, of New Haven, who, according to Mather (Magnalia, edition of 1702, book ii. p. 28), maintained his son "in the *Colledge* until he proceeded *Master of Arts*," which was in 1652, — the year before Dunster was writing. Samuel Eaton was one of the five original Fellows named in the College Charter of 1650. See Quincy's History of Harvard University (edition of 1860), i. 589; and Sibley's Harvard Graduates, i. 171, 172, 548.

[2] See Quincy's History of Harvard University (edition of 1860) i. 455 *et seq.*, where these accounts appear, but without dates.

[3] These marks occur in the original paper. They do not indicate that any part of this letter has been omitted in printing.

4 By virtue of y^{r} com̄iſſion y^{w} haue taken ſom accoūt of y^{e} ꝑſonall Talents ye Lord himſelf hath betruſted to mee: I mean w^{t} hath been caſt in upon mee from ſundry ꝑſons coming out of other Colonies, Ilands, & coūtries, whether England itſelf or others. To ye inhabitants of wch places wee are alſo juſtly liable to make accoūt for w^{t} hath been frō theirs received, & why. wch y^{r} wiſdoms will weigh. And how it wil ſtand wth Gods & the countries hon^{r}, to make good their promis by others bounty.

5 All menial ſervants & other workmen for ye Coll̄: are ſo ſatiſfyed & payd y^{t} none of y^{m} ſhal aſk any thing ſaue of ourſelves wthin ye houſe ſo y^{t} wee haue not run ye country in debt. nor ye Coll̄edge; but dues therunto being payd ſhal leaue it before hand aboue 100^{lb} beſides all mañer of gifts w^{t}ever mentiond in accounts.

The p^{r}miſſes conſidered, Honrd Gentlemen & faithful Com̄iſſioners, I haue theſe few requeſt[s?] wch I humbly pray y^{w} further

1 To inform mee faithfully if y^{w} ſee or ſuſpect any injury don by mee to any ꝑſon or ſociety in reference to ye caſe in hand, or of my demand.

2 To Rep^{r}ſent ye Caſe to ye court according to y^{r} wiſdom & faithfulneſs y^{t} neither ye Colony may ſuffer diſhon^{r} nor myſelf bee overburthened, & y^{t} wee may never bee put to ſpeake more in ye face of ye court for a pecuniary intereſt

3^{ly} That if y^{w} can ꝑpound matter of ſettling a Convenient revenue upon ye Coll̄. y^{w} wilbee pleaſed to take in ye adviſe of Accademical ꝑſons as Mr Norton [1] &c for ye form̄g therof, unleſs for ye p^{r}ſent Now. Or els at leaſt hear ſuch as haue been fellows in ye Coll̄:.

4 That y^{r} wiſdoms will adviſe about a ſetled way to ſet & keep ye buildings in repair. & how for ye p^{r}ſent or whence wee may haue ſuply to ꝑcure pay for ye neceſſary repayrs wee haue ingaged for, in reference to bord, ſhingle, glaſs nayles &c

5 That beſydes myſelf ſom^{e} other at leaſt one may bee joynd to look to theſe country accounts & y^{t} from year to year giving y^{m} up to ye honrd Magiſtrates at our coūtry courts there may bee an iſſue of y^{m} henceforth. So ſhal I reſt

Y^{rs} chearfully to ſerve in ye Lord while hee ſees good

Henry Dunſter.

The main of ye p^{r}miſſes p^{r}ſented in 10^{ber} 1653.

[3] Blank.

[1] The Rev. John Norton, who was bred at St. Peter's College, Cambridge.

[4] [Addressed]
To ye hon^rd Com̄iſſioners for
ye Coll̄edg, ye hon^rd Mr Increaſe
Nowel, Mr Daniel Gookin M^rt̄s
Mr Edward Johnſon captain
& Mr Edward Jacſon[1]
Theſe

[Filed] Mr Dunſter Letter

The text of the "Com̄issioners" "retourne" has not been found,[2] but the General Court's approval of it is recorded, under date of 3 May, 1654, in the following words: —

Courts apba tjon of ye com̄ittees retourne conc̄ ye colledge.

The Court, on pvsall of the retourne of the com̄ittee appointed to consider of colledge buisenes, doe judge that the tenn pounds brought in vppon accompt by the president of the colledge, for his care and pajnes for these twelve yeeres last past, in looking after the affaires of the colledge, in respect of building, repayring, or otherwise, be respitted till this Court take further order therein; and that the contributions and subscriptions lately given in, or which shall heereafter be given in by seuerall tounes and persons, together wth all other stocke appertayn-

[1] It does not clearly appear whether Leverett's name was inadvertently omitted from the superscription of this letter or whether he did not sit with the "Commissioners," which is not improbable. His services were constantly required for important military and civil occasions of every kind. In May of this very year (1653), and for more than a year following, he was a prominent figure in the troubles with the Dutch; and for a considerable part of this time he was out of the country. Early in 1654 Cromwell sent hither ships and troops for the reduction of New York. This expedition was put in charge of Robert Sedgwick and John Leverett, who bore the title of "His Highness's Commissioners." Leverett wrote to the Protector from Boston, 4 July, 1654, a letter in which he refers to "my last from Fiall of the first of May, 1654," and to his "saife arrival in Boston the fifth of June following."

It is not difficult, therefore, to see that Leverett's public engagements in a military capacity during the autumn of 1653 and the following winter and spring probably precluded his giving to the affairs of the College that close attention which their importance demanded, and that he preferred to leave to his four competent associates the responsibility of making the investigation and "retourne" ordered by the General Court. — See Plymouth Colony Records, x. 26–30 *et al.;* Massachusetts Colony Records, iii. and iv. (Part I.) *passim;* Hutchinson's History of Massachusetts Bay (edition of 1765), i. 179–183; Palfrey's History of New England, ii. *passim;* and Thurloe's State Papers, ii. 425.

[2] *Cf.* Johnson's Wonder Working Providence (Poole's edition), p. cxv.

ing to the colledge, shallbe comitted to the care and trust of the ouerseeres of the sajd colledge, who haue heereby power to give order to the treasurer of the colledge to collect the seuerall subscriptions & contributions which are or shallbe heereafter due from tjme to tjme; and in case of non-pajment thereof, that it be secured by the seuerall tounes and psons, so long as it shall remajne unpajd, and the produce of it to be pajd to the sajd Treasurer, and to be for the maintenance of the president and ffellowes, and other necessary charges of the colledge, and the seuerall yeerely allowance of the sajd president & fellowes to be proportioned as the sajd ouerseers shall determine concerning the same.[1]

Upon leaving Cambridge Dunster went first to Charlestown, where he was hospitably entertained at the house of Thomas Gould, — subsequently minister of the First Baptist Church in Boston, — who was an intimate acquaintance of Benanuel Bowers, also of Charlestown and a fellow-Baptist, whom he named in his will as one of his "overseers." Bowers had married, 9 (10) 1653, a niece of President Dunster. Other members of the Dunster family were inhabitants or landowners of Charlestown as late as 1746.[2]

Dunster remained but a short time in Charlestown, preferring the more tolerant Colony of Plymouth as a place of abode. He removed to Scituate, where he preached occasionally till his death on the twenty-seventh of February, 1658–59.[3] Persecution only increased the gentleness of his spirit, as is shown by his will, in which he designates as his "reverend and trusty ffriends" Dr. Chauncy, his successor in the Presidency of the College, and "matchless Mitchel," the pastor of the Church in Cambridge, whose criticism of Dunster's heretical opinions had referred their origin to "the Evil One."[4]

[1] Massachusetts Colony Records, iv. (Part I.), 186, 187.

[2] See Backus's History of the Baptists in New England (edition of 1871), i. 290; and Wyman's Genealogies and Estates of Charlestown, i. 102, 312, 313, and 428.

[3] Deane's History of Scituate, p. 180. *Cf. Ibid.* p. 248; and Palfrey's History of New England, ii. 533, 534, *notes.*

During the years 1653–1657 Dunster was harassed by no less than fourteen lawsuits brought by his step-children John Glover and Mrs. Priscilla (Glover) Appleton (*ante* p. 420, *note*) and others for an accounting of his stewardship of the Glover property. See Willard Memoir, pp. 178–180 and *notes;* Sibley's Harvard Graduates, i. 210, 211; and Middlesex County Court Records, i. 79, 83, 87, in Thomas's History of Printing (edition of 1810), i. 205, 222, 458–466.

[4] See Sibley's Harvard Graduates, i. 148–152, 155.

Of Dunster and Chauncy, President Quincy has well said: —

"Both of them were able, faithful, and earnest. Both pious, even to the excess of the standard of that quality which characterized the times. Both were learned beyond the measure of their contemporaries; and probably, in this respect, were surpassed by no one who has since succeeded to their chair. After years of duty unexceptionably fulfilled, both experienced the common fate of the literary men of this country at that day, — thankless labor, unrequited service, arrearages unpaid, posthumous applause, a doggrel dirge, and a Latin epitaph." [1]

I shall not attempt, Mr. President, to speak at length of the new light which this letter throws upon the early history of Harvard College and its first Building. Our learned Corresponding Secretary has made a close study of these topics, and I shall ask him to estimate for us the value of the manuscript treasure now before us.

Mr. Andrew McFarland Davis then said: —

Whenever a new contribution towards history is submitted to the public, every student will be tempted to measure its value by the extent of the information which it adds to the subject with which he is especially familiar. Such is the manner in which I approach this question as I respond to the request of Mr. Edes and add my testimony to the extent of the obligation which we owe him for unearthing and submitting to our inspection the important document which he has just described and shown to this Society. My personal means of estimating its worth are based upon the following circumstances. In April, 1890, I read a paper before the American Antiquarian Society entitled The Early College Buildings at Cambridge.[2] The cause for the preparation of that paper is to be found in certain entries in the first book of Records of Harvard College which evidently related to the completion of the first college building. At that time the only sources of information upon that subject were to to be found in Peirce's and Quincy's Histories of the College. Quincy, the later writer of the two, had made use of what had already been published, and in the text of the first volume of his

[1] History of Harvard University (edition of 1860), i. 14, 15. See also Magnalia (edition of 1702), book iv. sect. 10, pp. 175, 176; and *ante*, p. 416, *note*.

[2] Proceedings of the American Antiquarian Society, New Series, vi. 323–349.

History was to be found the mere assertion that such a building had been erected. In the Appendix to the same volume (pp. 452–454) two Statements of Account are to be found, one of them an itemized statement of the expenditures made by Nathaniel Eaton in connection with the erection of this structure. Eaton was removed from the supervision of this work in 1639, and the second of these Accounts is a copy of a Statement made by Samuel Shepard, who apparently succeeded Eaton as Superintendent of the building. Shepard's Account is incomplete, but it contains receipts as well as disbursements. The latest date in this Statement is 1641. Certain Statements of Account made by Dunster are also submitted by Quincy in this connection, but there is nothing in them which would indicate that Dunster had anything to do with the construction of the building.

If we search contemporary literature, we find that Johnson briefly commented upon the appearance of the building in his Wonder Working Providence.[1] The author of New England's First Fruits[2] also mentioned it, and furnished some interesting details as to the uses to which the various rooms in the building were put. Beyond this we find nothing of importance except that Winthrop mentions in his Journal that the Magistrates and Elders dined at the College at Commencement in 1642,[3] and that the Synod "sat in commons and had their diet there" in 1643.[4]

The memoranda which I found in the first College Book, and which led me to prepare the paper to which I have already referred, related to the finish of the several chambers and studies in some structure, — presumably the first college building, — and as I then interpreted them they consisted in charges against the occupants of the rooms for the sums of money expended upon the finish of the chambers and studies, in order that they should be completed and made ready for occupation. Some of these rooms were ceiled with cedar, some were plastered and whitened, and some were caulked and daubed with clay. From this it was inferred that the length of the purse of the proposed occupant of the room determined the character of the finish. One of these Accounts is dated in November, 1643, and a bill for the glass used in the building was rendered in March, 1644.

[1] Chap. xix. pp. 164, 165 (Poole's edition).

[2] 1 Massachusetts Historical Collections, i. 242 *et seq.*

[3] History of New England (edition of 1853), ii. 105.

[4] *Ibid.* ii. 165.

I was much perplexed at these dates, for it seemed improbable that a structure which probably was begun in the early part of 1639 should not have been completed and ready for use in 1643; nor was this perplexity relieved by Winthrop's entry that the Government of the College dined there at the Commencement in 1642. Nevertheless, I then concluded that there could be but one interpretation put upon the entries in the College Book, viz.: that the College did not have money enough to finish the building, and that whoever had charge of the work resorted to the device of getting the young men who were to occupy the several chambers and studies in it to advance the means for their completion, giving them at the same time a voice in the character of the finish and a control of the extent of the expenditures. In my paper I then said with reference to the dinner in 1642, "it would seem as if the building must have been used before it was completed, which probably was substantially accomplished in the fall of 1643." With this review of the study which I then made upon this subject, let us look for a moment at this paper, and see what additional information we acquire.

In the first place, we find there the first mention that I have seen of the connection of Hugh Peter with this work, or that the name of Joseph Cooke was even temporarily associated with it. The statement that the supervision of the work devolved upon Dunster on the third of October, 1641, is also new, and we have in addition at this date a description of the then condition of the structure. The floor of the Hall was laid, but no partition walls were constructed, and not a single study erected throughout the building. For the first time the students assembled in Commons in September, 1642. The inference that the building was incomplete when the Government of the College dined there in the summer of the same year seems not unreasonable; and inasmuch as Dunster does not speak of the general occupation of the building at the time of its first use for Commons, it is fair to suppose that the work of completing the upper part was still in progress. On the whole, what Dunster says seems to corroborate the views which I expressed in my paper in 1890. It will be seen at a glance how much there is that is new, and how interesting it must be to one who had exhausted every means at his disposal to obtain information upon the subject.

Others will search this letter for knowledge upon other topics. Those who are interested in the details of Dunster's life will find new material, and as we go through it paragraph by paragraph, we can see that it will prove helpful to great numbers of students.

In conclusion, let me again express my appreciation of the importance of this document, and let me congratulate the Society that our Transactions have been selected as the avenue through which it should be communicated to the public.

The Recording Secretary, on behalf of Mr. ABNER C. GOODELL, Jr., who was unavoidably detained from the meeting, read the following communication upon the subject of the Dunster letter: —

I think it remarkable that the researches of members of our young Society should have brought to light so many interesting items of historical importance relating to our oldest University. The labors of our associate Mr. Andrew McFarland Davis, in tracing the history of the First Scholarship and of the First College Building, — though his results were not contributed exclusively to the Publications of this Society, — are worthy of distinguished recognition as the fruit of antiquarian research of the first order. So, also, his success in clearing up the mystery of the families of Mowlson and Radcliffe, — thus putting the College of to-day in clear and close relations with one of its earliest benefactors; and his papers upon the legal establishment of the Corporation, in which, with great astuteness, he points out the fact, overlooked by others, of Andros's assumption of authority over the finances of the College as a conclusive indication that the existence of the Corporation was not interrupted by the so-called "Usurpation," — are all most striking and valuable additions to the history of the Cradle of American learning.

Now comes to light this curious memento of President Dunster, singularly preserved to the present time, as I understand, almost within the shadow of the College Halls. Truly, I do not know which is more wonderful, — the fact that its importance has so long escaped recognition, or that it should have so recently come under

the notice of one of our associates qualified by his knowledge of history to appreciate it. At all events, we should be duly grateful for this new accession of data for solving doubts that have so long perplexed those who have been interested in the career of one of the most remarkable and most lovable characters in New England history.

It is especially desirable to recover all the information possible regarding the biographies of such men as Dunster, Roger Williams, and other early Baptists, and of the Antinomians and Quakers, — male and female, — since what we know of them is so honorable to their characters as earnest, sincere, tolerant Christians, two centuries in advance of their times, who labored in the service of God for the welfare of all, even their enemies, and who seem to have been absolutely free from malice or vindictiveness.

Some features of Dunster's style in this letter are suggestive. He had the reputation of being an excellent Hebraist, hence to him was assigned the duty of improving the rugged metres of the original version of the Psalms known as The Bay Psalm Book, which was a very difficult undertaking, inasmuch as the translation was required to be an exact metaphrase of the Hebrew, which evidently hampered the first translators in their attempt. Now, this letter affords some reason for believing that Dunster occasionally *thought* in Hebrew, or according to forms of Hebrew syntax, as found in such expressions as "while under my sole stewardship all was," etc.

I deem it superfluous to dwell on the historical importance of this letter, since, doubtless, Mr. Edes will show wherein it furnishes curious information of use in clearing up certain obscurities in the earlier records of Harvard University, and in fixing the dates of events in Dunster's career.

Mr. GEORGE LYMAN KITTREDGE spoke of the Gorham and other Papers recently found by Judge Day at Barnstable, and now preserved in the Library of Harvard College, and read extracts from Col. Joseph Gorham's letters and notes on a military expedition to Cuba in 1762.

Mr. ALBERT MATTHEWS read the following paper on the use by American Colleges of the word —

CAMPUS.

The older American Colleges began each with a single College Building, and the grounds owned by the colleges and in which those buildings stood were variously called The College Grounds, The College Green, The College Yard, or simply The Yard. But at the present day another term is also employed, one generally adopted at the newer colleges, and which has succeeded in displacing at most of the older colleges the terms originally in vogue. I refer to the word Campus. Though it is found neither in the Oxford Dictionary nor in the Stanford Dictionary; though, so far as I am aware, it has escaped the attention of all writers on the subject of Americanisms except Mr. B. H. Hall, who in his College Words and Customs, 1851, mentions its use at Princeton; and though it was not recognized by lexicographers until the publication of the Century Dictionary, in 1889, yet the word has been employed in this country for about a century and a quarter. It was recently asserted by Mr. G. R. Wallace that "it was at Princeton that the college grounds were first called The Campus, and it is in Princeton only that the full meaning of the word is realized."[1] As the word appears at Princeton as early as 1774, and apparently not elsewhere until about fifty years later, the Princeton claim seems well founded. How such a term arose is perhaps not obvious. If it could be shown that the word was applied only to that portion of the grounds set apart for sports, or where the famous cannon is buried, it might be inferred that the term was suggested by the Campus Martius of the Romans. But the highly organized system of athletics which now prevails throughout the country is quite modern, and was not a feature of student life at American Colleges in the eighteenth century; and the passage cited below which shows that games were occasionally indulged in towards the close of the last century also shows that such a system would not have been tolerated by the Princeton authorities, and that what now would be considered the mild game of "shinny" was prohibited by the Princeton Faculty. In the Account of the College of New-Jersey, published in 1764, it was stated that "the college itself [*i.e.* Nassau Hall] . . . still remains without a proper in-

[1] Princeton Sketches (1893), p. 150.

closure of its court-yard and back grounds;" and in a note it is naïvely added that "in the plate hereunto annexed, the court-yard is represented as inclosed by a pale-fence, in like manner with that of the President's house: But this is done only from the fancy of the engraver."[1] In 1768 it was —

"hereby strictly ordained, That no resident student or undergraduate, subject to the rules and orders of the College, shall at any time, after the next Commencement vacation, appear either at Church, in the College Hall at prayer, or at any other collegiate exercises, or at any time abroad, or out of the Hall (excepting the back yard of the College only, and that on necessary occasions), without being clothed in their proper College habit."[2]

In a letter dated 23 July, 1770, James Madison, then a student, wrote: —

"Their letter to the merchants in Philadelphia, requesting their concurrence, was lately burnt by the students of this place in the college yard, all of them appearing in their black gowns, and the bell tolling."[3]

In 1802 it was resolved by the college authorities "that a building . . . be erected on the northeast side of the front yard of the College edifice," and "that on the opposite or west side of the College yard there shall be erected another building."[4] And in 1822 President Ashbel Green wrote that —

"The college edifice . . . was not only re-edified, but a professor's house was added to the establishment, with two large brick buildings three stories high: — one on the East side of the front yard of the college, . . . and the other, on the West side of the yard."[5]

Comparing these extracts with the citations given below, it is seen that Yard was the term originally employed, that it remained in use after the introduction of Campus, and that the two terms were used interchangeably without distinction in meaning. As for the cannon, it is sufficient to point out that that is a relic of the battle of Princeton, fought in January, 1777, at which time Campus had been in use for three years. It has been suggested

[1] Page 42.
[2] The Princeton Book (1879), p. 14.
[3] Writings of James Madison (1865), i. 4.
[4] J. Maclean's History of the College of New Jersey (1877), ii. 47, 48.
[5] Discourses, p. 276.

to the writer that "the Scotch element that presided over Princeton may be responsible for the Latin term, the Scotch always having treasured Latinity with a respect above that of their English neighbors." When it is borne in mind that Nassau Hall was built (1756) in a perfectly flat, treeless field; and when it is remembered that the first Scotchman to become President of Princeton was Dr. Witherspoon; that he came from a country where the Universities were situated in cities; that he reached this country in 1768; that soon after his arrival the term appears; and that Witherspoon gave to the country-seat which he built for himself near Princeton, in 1773, the name of "Tusculum," — it will perhaps be admitted that this explanation is plausible.

At Harvard the word Yard is found as early as 1639, and still remains in use, Campus never being employed there unless possibly by men from other colleges. At William and Mary the terms Yard and Green were long used, but recently Campus has obtained a foothold. At Yale, too, Yard and Green were in use for a century and a half, but within the last twenty-five years they have been displaced by Campus. This last word was unknown to Mr. L. H. Bagg, the author of Four Years at Yale (1871); and Prof. H. A. Beers, a graduate of '69, has recently said that "we did not use to call it 'Campus,' by the way, but 'Yard.'"[1] Campus has now found its way into every State and Territory in the Union except Arizona, and possibly Oklahoma. From college histories, from college catalogues, and through correspondence, information has been obtained in regard to the usage at three hundred and fifty-nine American collegiate institutions. At thirty-eight institutions the term is unknown. At Boston University the Campus "is so encumbered with buildings that the term is no longer in ordinary use." At three hundred and twenty institutions the term is employed. At twenty of these (of which twelve are Roman Catholic) Campus is applied to an athletic field alone. It should be observed that only two of these colleges were founded before 1830. The same use obtains at the University of Toronto, Canada, and at some American academies, such as Phillips Exeter Academy, New Hampshire, and Phillips Academy, Andover, Massachusetts. At five institutions Campus is given a peculiar application. Thus at Albion College it is "applied to the vacant

[1] Ways of Yale (1895), p. 6.

grounds about the college buildings;" at Gallaudet College it is used "in reference to a broad lawn in front of our College building;" at the Stevens Institute of Technology it designates "a small part of the ground immediately in front of our main building;" at St. Stephen's College it means "the Field in front of the College Building;" and at Wellesley College it "is not applied to an athletic field or to those parts of the grounds occupied by buildings," but "designates the tolerably level and unwooded stretch of lawn directly below and to the northeast of College Hall." At the remaining two hundred and ninety-five institutions the meaning attached to Campus is that of the grounds in which the buildings stand, or the grounds in general. These grounds are sometimes so extensive as to enable a portion to be set apart for an athletic field, but in such cases the athletic field is not itself the Campus, but only a part of the Campus. And sometimes a college will have two or more "Campuses." It may be worth noting that out of twenty-three Roman Catholic colleges the term is not employed at all at nine; that at twelve it is applied to an athletic field only; and that at the remaining two it designates both the grounds and the athletic field, but more particularly the latter. Thus the usage at Roman Catholic institutions distinctly differs from the usage recognized at American colleges in general. At three or four colleges Lawn and Park are preferred. It is curious that the term Campus first appeared in print in a book of travels published by an Englishman in 1833, while apparently not until 1851 did it occur in a book printed in America.[1]

The following citations are offered in illustration of the history of the term: —

"Last week, to show our patriotism, we gathered all the steward's store of tea, and having made a fire in the Campus, we there burnt near a dozen pounds, tolled the bell and made many spirited speeches."[2]

"It appearing that a play at present much practiced by the small boys among the students and by the grammar scholars with balls and sticks, in the back campus of the college, is in itself low and unbecoming gentlemen and students; and inasmuch as it is attended with great danger to the health by sudden and alternate heats and colds; as it tends by accidents almost unavoidable in that play to disfiguring and maiming those

[1] See Postscript on p. 437, *post.*

[2] 1774, January, C. C. Beatty, in J. F. Hageman's History of Princeton and its Institutions (1879), i. 102.

who are engaged in it, for whose health and safety as well as improvement in study as far as depends on our exertion, we are accountable to their parents and liable to be severely blamed by them; and inasmuch as there are many amusements both more honorable and more useful in which they are indulged, — Therefore the Faculty think it incumbent on them to prohibit the students and grammar scholars from using the play aforesaid." [1]

"Resolved, That no person whatsoever be permitted to erect any booth or fix any wagon, for selling liquor or other refreshment on the day of Commencement on the ground of the College, except on that part of the road to the eastward of the middle gate of the front Campus." [2]

"A student was charged with being absent from the Town without permission. He confessed the fact, and the Faculty determined to punish him with severity. It was therefore resolved unanimously, 'that he be required to construe and commit to memory twenty lines of Virgil's Æneid, and not to be seen out of the Campus until he had done so.'" [3]

"You would smile at the difference in the manner of a young man when he struts among his mates on the campus, and when he comes, with all possible humility, to ask leave to go into town, or to be excused from recitations." [4]

"In front of the College is a fine campus ornamented with trees." [5]

"One fine day in December, 1834, the Trustees, busying themselves more actively than usual in household matters in the Campus, rolled into one bundle all the Professors, and the luckless Tutor who allowed himself to be caught in such company, and by the help of a polite request to vacate their places, quietly tumbled the whole out of the Campus." [6]

"What was called the College Campus, a rectangular plot of four acres, was graded and fenced in 1826–7. Two or three years later, a row of elms was planted along the stone wall that bounded the Campus on the east." [7]

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[1] 1787, November 26, *Ibid.* ii. 316.

[2] 1807, in J. Maclean's History of the College of New Jersey (1877), ii. 80.

[3] M. LaBorde's History of the South Carolina College (1859), p. 129. The date of this resolve was 1821, — the earliest use of the term at any college except Princeton.

[4] 1824, J. W. Alexander's Forty Years' Familiar Letters (1860), i. 57. The writer was a professor at Princeton.

[5] Finch's Travels in the United States and Canada (1833), p. 282. The writer refers to Princeton.

[6] L. R. Gibbes, in M. LaBorde's History of the South Carolina College (1859), p. 197.

[7] S. W. Fisher, in Semi-Centennial Celebration of Hamilton College (1862), p. 82, *note*.

"A charming breathing-place was the campus of Columbia College, surrounded by the college buildings and with them occupying the block bounded by College Place, Barclay, Murray, and Church Streets."[1]

"I once asked my old friend and classmate, the late President Felton, as we were walking over the college *campus* at Cambridge together, for what he would exchange such recollections."[2]

"This game was played considerably for a few years, on what was known as the 'north ground,' — that portion of the 'campus,' lying north of the East College walk."[3]

"On the eastern border of the city the fields rise by a gentle slope to a plain of moderate elevation and of easy access. Near the upper edge of this slope the construction of a terrace a few feet high would afford a level campus of ample space, and a site for buildings that would overlook the valley, the river, and the neighboring city."[4]

"There is no spell more powerful to recall the memories of college life than the word Campus. It is a name set apart for that delightful land where college laws and customs are supreme, the home of song and jest and old traditions, a country whose inhabitants are always young, and from which 'black care' is banished. . . . The College of New Jersey in its first peripatetic stage, when it was drifting about Elizabethtown and Newark, had no territory worthy of the name of Campus."[5]

"Although the University has no dormitories, several of the chapter-houses of the Greek-letter fraternities are not far removed from the university grounds, and there is a growing tendency to multiply them in close proximity to the Campus.[6]

"Mention has been made of the fact that Lehigh, at the present time, has no dormitories. Her students do not, therefore, live within the limits of the college campus, as is the case at so many other institutions."[7]

"About half a mile from the University Campus is located 'Monnett Hall,' the delightful home of the young women. . . . Monnett Hall is

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[1] 1871, A. C. Dayton's Last Days of Knickerbocker Life in New York (1897), p. 162. In 1857 Columbia College was removed to its present site. It is doubtful whether Campus was ever actually in use during the occupation of the original site.

[2] 1870, W. A. Stearns, in Opening of Walker Hall, Amherst College (1871), p. 32. The writer was then President of Amherst, where the term was beginning to be adopted.

[3] G. R. Cutting's Student Life at Amherst College (1871), p. 113.

[4] W. Wells, Union College, in The College Book (1878), p. 187.

[5] H. J. Van Dyke, Jr., in The Princeton Book (1879), p. 375.

[6] Annual Catalogue of the University of Rochester, 1895-96, p. 13.

[7] E. M. Hyde's Lehigh University: A Historical Sketch (1896), p. 36.

situated on a separate campus, and was constructed with the aim of providing for young women, while in college, a comfortable and an attractive home."[1]

"The University grounds consist of two campuses, the Old Campus and the New Campus. The Old Campus, at the south side of the town, covers ten acres and contains one building, the old college chapel, and the athletic field. The New Campus is at the east side of the town, and contains twenty acres."[2]

POSTSCRIPT.

A discussion in regard to "Campus" took place in The Nation of 14 and 28 April, 26 May and 2 June, 1898 (LXVI. 285, 323, 403, 424). At page 424 a writer pointed out that the word Campus had been found in the Nassau Literary Magazine, 1848 (VIII. 139.) The passage was among my notes, and attributed to the proper source, but I did not know the exact volume and page where, nor the date when, it occurred.

15 June, 1898.

[1] Catalogue of Ohio Wesleyan University, 1896, pp. 80, 89.

[2] The Indiana University: Illustrated Announcement (about 1896), p. 5.

APRIL MEETING, 1897.

A STATED MEETING of the Society was held in the Hall of the American Academy of Arts and Sciences on Wednesday, 21 April, 1897, at three o'clock in the afternoon, the President, EDWARD WHEELWRIGHT, in the chair.

After the Minutes of the last Stated Meeting had been read and approved, the PRESIDENT appointed the following Committees, in anticipation of the Annual Meeting: —

To nominate candidates for the several offices, — the Hon. JOHN LATHROP and Messrs. FREDERICK LEWIS GAY and FRANK BREWSTER.

To examine the Treasurer's Accounts, — Messrs. RICHARD M. SALTONSTALL and ELIOT C. CLARKE.

The PRESIDENT announced the death, since the March Meeting, of the Hon. DARWIN ERASTUS WARE, and spoke of his warm interest in the Society and its work.

Mr. JAMES BRADLEY THAYER then paid this tribute to the memory of his friend and classmate: —

As life goes on with those of us who are nearing the goal, one is continually reminded of the way in which human experience repeats itself. The things that we have been hearing of all our lives, and have little heeded, perhaps, are now coming home to us, as these heavy experiences thicken about us, this swift vanishing of friends, "this losing," of which a great man has truly said, out of the depths of a grievous personal experience, that it is the "true dying."

A few months ago, near the end of November, our President, Dr. Gould, died; he was, to many of us, a dear friend. As one of the pall-bearers at his funeral, I came away from his grave in the same carriage with our associate, General Walker. He was the image of manly strength as he sat there and talked of different varieties

of men in his vigorous, eager way, — of men who stand still instead of growing, and of men whose powers and character, as he said, "double themselves every five years." He himself seemed to me then a present illustration of his own text. It was but a few weeks later when this strong man was in his grave.

Again, only a little later, towards the end of February, at the funeral of another of our associates, Mr. Shattuck, with whom I had been a partner in business and a very old friend, I walked as a pall-bearer by the side of another of my oldest friends. But a few weeks later, on the second of this present month of April, came the swift tragedy of this friend's death; and we are here now to commemorate Ware, as we have met before, so lately, to speak together of Shattuck, Walker, and Gould.

Of Shattuck, Ware himself had been named to write some sketch for the annals of our Society; and he had just begun to write it. On Monday evening, the twenty-ninth of March, just before the sudden disorder of the next day, which ended his own life on the third night following, after he had returned from presiding over a meeting of the Examiner Club, he sat down to write; but he was soon interrupted. I hold in my hand the single pencilled sentence that was then written. It was this: —

> "When an associate who has attained eminence in one's calling dies, we who were content to merely witness his performances and to give them our praise, at once begin to consider what were the sources of his power, and, if he had a place in our affections, by a certain contradiction in nature, we console ourselves by such contemplation of his virtues as shall deepen in our hearts the sense of irretrievable loss."

That sketch must now be finished by another hand; and these words, before a month is out, furnish the text for our meditations upon him who wrote them.

My acquaintance with Ware began nearly forty-nine years ago, when we both entered College, in the autumn of 1848. We were friends from the start, and have been friends ever since, without a break. Indeed, no one who had once been Ware's friend could ever be otherwise, — he had himself so true a heart and so cordial an enthusiasm of feeling, and in character and intellect, he was so attractive, so helpful, and so valued a companion. He came to College from the Salem schools, in company with seven others.

His father owned and cultivated a large farm on the seashore, just over the Salem line, in Marblehead; but Ware went to school in Salem, and he stood, in the College catalogue, as one of eight boys from that town. Two others, from neighboring towns, always counted, among their classmates, as belonging to the Salem group; and these ten men later on included among them, in the persons of our associate Thorndike, the two Choates (William and Joseph), and Darwin Ware, half of our "first eight," as they used to call the highest scholars in the Class.

I cannot recall my first meeting with Ware, but probably we came together as two out of a saving remnant of half a dozen or so who were known to hold, at that unpropitious time, pretty hot anti-slavery sentiments. These few, in that Presidential year of our entering, when General Taylor had just been nominated, were sure to meet at Faneuil Hall on those rousing occasions when Charles Sumner and Richard H. Dana, Jr., and other leaders of the "conscience Whigs" and the Free Soilers, gave what seemed to us such splendid utterance to the anti-slavery sentiment of the time.

In college, Ware was not only a high scholar, but a favorite in the Class, prominent, respected by all, and a member of the leading Societies. His friend, the Rev. Edward H. Hall, of the Class just before ours, truly said of him the other day, in an admirable short address at his funeral, that —

> "the enthusiasm for higher thought and love of philosophical speculation which he showed, singled him out among his fellows almost as much as did his sturdy moral sense and the scrupulous conscience which led him, when occasion demanded, to bid defiance to all the accepted customs and traditions of our little College world."

As an illustration of the qualities last referred to in this passage from Mr. Hall's remarks, — Ware's courage and independence of thinking, — it is remembered by his friends that at his initiation into one of the chief of the College Societies, at a point where, according to a venerable usage, the novice is required, by an awful voice, to "Swear!", Ware obstinately refused to swear, and, after an ineffectual struggle with him, the unheard-of variation of affirming him had to be resorted to.

Graduating in 1852, high in rank, as I have said, and in the

esteem of his class, Ware was a teacher, for a year, in a school at Jamaica Plain; and then, returning to Cambridge, he graduated at the Law School in 1855. He continued his studies at the Law School for another year, and left it, when I did, in 1856. At the beginning of his practice, through the introduction of a classmate, he became associated with a much older lawyer who had a large business, and, in particular, had many cases in the courts; but this lawyer lacked ability to handle his work, and the discrimination to judge when to begin litigation and when to abstain from it. Ware was at once plunged into the thick of actual practice, in the trial of cases for the entering of which in the courts he had been in no way responsible. It happened, as was inevitable, that he lost many of these cases, — probably no more than he should have lost but still so many as to excite remark. It was the opinion of his friends that these facts hurt him for a good while. In 1866, this arrangement was ended, and he formed a law partnership with John T. Morse, Jr., which continued until 1872, when he became the partner of our associate, George S. Hale. It was at about this period, I believe, that he declined the offer of a place on the Supreme Judicial Bench of the Hawaiian Islands.

In 1863 Ware was a member of the Massachusetts House of Representatives from Marblehead, where he had fixed his residence; and during 1864 and 1865 he was a Senator from the district which included Marblehead. In 1866 he was placed by Mr. McCulloch, the Secretary of the Treasury, on a commission to revise and codify the customs, revenue, and shipping laws of the United States, and in the winter following he passed several months in Washington upon this service. From 1866, for eight years he was an important member of the Massachusetts Board of Harbor Commissioners. This place he resigned in 1874, upon entering into a law partnership with Peleg W. Chandler and our associate, John E. Hudson. In 1878, this firm was dissolved, but Ware always maintained a close business relation with Mr. Chandler until the death of this older friend, when he became one of the executors and trustees under his will.

While Ware was in the Senate in 1865, he performed a service to his University, and, through that, to the State and the country, of great and lasting importance. He framed and carried through the Legislature a measure which was the beginning of a new era in the

University, — the law which broke up the old system of electing Overseers by the Legislature, and intrusted the choice of that important body to the College alumni. The suggestion of this, as Ware told us at our Annual Dinner last November, was first made to him by Professor Child; and both he and Dr. Walker assured Ware at the outset that no greater benefit than this could be conferred upon the University. Mr. Ware had strong coadjutors, in particular, Francis E. Parker, at that time a member of the Senate, and Horace H. Coolidge, his classmate, then a member of the House; but the measure was Ware's own; it was he that originated it, watched over it, and saw it through from beginning to end; and the task was a hard one. The Bill passed the Senate by only a single vote, and the House, also, by a very narrow majority; nothing saved it but the persistent and vigilant exercise of skill, address, and abilities of no common order. Ware himself regarded this as the worthiest accomplishment of his whole life. It was, indeed, a service which deserves to be permanently commemorated at Cambridge.

Ware's place at the Bar was a good and honorable one. He was a sound lawyer and a safe and sagacious adviser, who thought out his problems thoroughly and with conscientious fidelity. But honorable and good as his place was, he did not have that eminence and high distinction at the Bar which we, his old friends and admirers, had anticipated for him, and which his powers and attainments justified us in expecting. What I have already said may intimate some of the causes which led to this, — the circumstances of his first entrance upon practice, and the extent to which he was drawn away from the law by his service in the Legislature, his employment at Washington, and his eight years of work on the Harbor Commission. Such withdrawals and interruptions in legal practice for nine or ten of the best years of a man's life mean much.

There was another cause, and I will come to that in a moment or two. Ware, in his early days, was very much drawn to public life. He had been brought up in a household burning with interest in the greatest National questions of the day, those arising out of Southern Slavery and its relations to the National Government. He was not only a man of warm sympathies and an ardent and enthusiastic temperament, but also, from his youth up, he was a

very serious-minded person, given to reflection and brooding upon all the gravest intellectual problems connected with the subjects that most interested him. He had formed to himself an inspiring image of what a competent and high-minded public man might do for his country, and in his earlier days, he would gladly have seen the door open for his own entry upon so great and worthy a career. Had circumstances favored that ambition, I believe that he would have been one of the ablest and wisest of American statesmen, worthy to have ranked among the leaders at any period of our history. The opportunities of such a career would have struck the deepest springs of his life; they would have roused all that strong enthusiasm that burned in him to the end, and would have called out all that capacity for solid and effective thinking which his friends perceived in him. There would, indeed, have been some faults to overcome; some luxuriances would have dropped off, some obstructions would have burned away. In some of his early addresses, in his political days, it seemed to his cooler friends that weighty thinking and high sentiments and force of expression were marred by somewhat that was crude and grandiose. But these were the faults and redundancies that naturally attended certain admirable qualities in the earlier stages of their development, — strong qualities that would have carried him far in public life.

As things turned out, Ware did not enter on public life; and in the career that actually fell to him, there was a certain lack of harmony in his powers which went to lessen his distinction at the Bar. With all his remarkable capacity for profound, comprehensive, and accurate thinking, yet the ordered expression and utterance of it was difficult. While, therefore, he would now and then come out with a really masterly handling of a subject, with a thoroughly admirable statement of it, and while he was always capable of this, he was, nevertheless, too apt to let the difficulties of the process appear in his utterance. He was, therefore, less effective as a speaker and as a writer than was to be expected; he lacked mobility of mind, and that quickness of faculty and ease of utterance which would have seconded so admirably his weighty gifts. It should be added that these embarrassments came partly from the fact that he knew so well when a thing was perfectly worked out and expressed, and because he could not be satisfied with anything that fell short of his own high and difficult standard.

But I am exaggerating these things by dwelling upon them. I do not mention them from any love of criticism, but because I would worthily appreciate him, and would speak fitly and truly, and as he himself would wish, of one whom I have loved and admired ever since I knew him. The trifles that I speak of, often working as they did, in the actual circumstances of Ware's life, to hinder and obstruct him, would, I believe, have burned off like a cobweb, in the ardors of that public career which he might have occupied, which would have roused all his powers into easy and happy co-operation, which would have set him in an arena wherein he would have rejoiced like a strong man to run a race.

In politics, Ware was earnestly allied with the early anti-slavery parties, the Free Soilers and their antecedents, and then with the Republican party, until the nomination of Mr. Blaine. After that he was an Independent, a supporter of Mr. Cleveland, and generally acting rather in sympathy with the Democratic party than with its adversaries.

In his religious opinions he was a Unitarian, and, as among them, he belonged to that large class of Christians, of truly religious persons, who value their denomination chiefly because it asks them no questions.

Such a man was sure to be in demand for a good deal of public and social service. He was repeatedly chosen to the Board of Overseers of Harvard College, he was for many years a Director, and the Treasurer, of the Associated Charities of Boston, a member, and at one time President, of the Tariff Reform League, Vice-President of the Examiner Club, and a member of various other social, charitable, political, and religious organizations.

On the twenty-sixth of May, 1868, Mr. Ware married Miss Adelaide Frances Dickey of Veazie, Maine. She survives him. Their only child also survives him, a member of the Bar and a man of ability and promise, who succeeds to his father's business.

I must not touch upon matters too private to be mentioned here; but I cannot help saying just a word or two upon one of the most engaging and characteristic aspects of our friend. As I have indicated, he had always a delightful enthusiasm of nature, which glowed in his face whenever he met a friend. Always he was a man of sentiment, a reader and admirer of what is best in poetry and literature and the drama; fond of treasuring up

these things in his memory and saying them over. He himself was a poet, and he wrote verse which was strong and good, and full of the high feeling that found expression in his life. And then, what chiefly I wished to say just here, to the end of his days he was a lover. Early in life he had conceived of love as the one great, entrancing dream and flower of human existence. Many a young man has done that, but few are they who in the dust and heat of life have kept the freshness of their early dream, and have lived up to it. Ware was one of these. He had the rare and beautiful qualities, the passion, the delicacy, the force and constancy of character, the true nobility of soul which such a life requires. And thus it happened that through all his life, having once caught sight of his ideal, he "was not disobedient unto the heavenly vision."

Mr. JOHN NOBLE followed Professor Thayer, and said: —

To-day, as so many times in the course of the last two years, we have to lament the loss of an Associate. Once again we miss one of our number, and, as before, one of our most prominent and honored members.

In the wide and varied field of interests which Mr. Ware represented, it is hard to say where his loss will be felt the most, — whether in his profession, as the public-spirited citizen, the man of affairs, the scholar of refinement and culture, or the ever-faithful and warm-hearted friend.

As a lawyer, no man was ever truer, not in letter only, but in the exactest requirements of the spirit, to the obligations of that singularly comprehensive and impressive Oath, —

"You will do no falsehood nor consent to the doing of any in Court; you will not wittingly or willingly promote or sue any false, groundless, or unlawful suit, nor give aid or consent to the same; you will delay no man for lucre or malice; but you will conduct yourself in the office of an attorney within the Courts according to the best of your knowledge and discretion, and with all good fidelity as well to the Courts as your clients."

He had not the brilliant but dangerous gift of ever-ready oratory, but he presented a case with an earnest force and impressive conviction which often well supplied its place, and became at

times the most effective kind of eloquence. He tried his cases thoroughly. Not content to rely on certain strong points pressed with a vigor that insured success, his conscience would not allow him to leave a single point untouched or a single argument unpresented which might possibly affect the ultimate decision. All was well studied, solid, impressive. He stood among the leaders in his profession as a judicious counsellor, a sound lawyer, a forceful advocate, and, above all, as a man of unswerving honesty and honor.

As a citizen he was public-spirited, independent, courageous, active, ready to take his part in whatever seemed to him to be for the public good, and to lend the weight of his name or his voice or his labor. He was alive to all that was going on. In the causes of Civil Service Reform and Tariff Reform he was especially concerned, and of the first one of the earliest advocates.

He was identified with several of the Charitable organizations of the City and of the State. For more than thirty years he served the public in various capacities, quietly, without display, or private profit, or personal ambition.

He did good work on the Harbor and Land Commission, and on the Commission for the revision and codification of the shipping, customs, and revenue laws.

He took a strong interest in politics, though never seeking and seldom holding office. One year in the House and two in the Senate make the limit of his public political career, — in each position an intelligent and judicious legislator. One statute at least, were there no other, will be his enduring monument, for institutions live though men die.

Mr. Ware was a loyal son of his Alma Mater. Whatever concerned the College concerned him, and few men were more conversant with its needs and its interests. He served as an Overseer two successive terms of six years, and later one of two years more. He had been proposed again this year as a candidate for the Board of Overseers, and only a few days before his illness had consented that his name should be submitted to the Electors. To him, perhaps, more than to any other one man, the College and its graduates owe the legislation of 1865, which lifted the control of the Board of Overseers out of the accident of politics, office, and profession, and placed it in the safe keeping of those most vitally

concerned, — the body of the Alumni. Why should not his portrait be hung in Memorial Hall among those of the benefactors of the College? With such, it would seem, should it find place, and the service he rendered the University receive fitting recognition.

With all his engrossing occupations, he found time for social and literary organizations, to his own pleasure and their profit. He was a man of much reading, of wide information, and refined and catholic taste. From his College days he was fond of metaphysics, and speculative philosophy had special attractions for him. The acquaintance then begun with Pythagoras and the old Greek philosophers continued, and took in the philosophical writers of modern times.

Quite recently he had shown ability in another direction somewhat unexpected. Some Sonnets which he wrote have a rare expressiveness and point and rugged strength; and as a journalist he was for a time one of the leading writers on the Boston Post, during its brief and brilliant career under the editorship of our associate, Mr. Edwin M. Bacon.

He had a vein of humor which came out often in the freedom of social conversation, genial, bright, and fresh, which never entered into his more studied utterances, whose main characteristics were always weight and force.

One of his most prominent traits was his ever-ready and chivalrous devotion to a friend or a cause. If either needed him, a word was enough. He threw himself into the breach, whatever and wherever it was, courageously and cheerfully, even at a sacrifice to himself. He might always be relied on to fill a gap or meet an emergency. Another characteristic was his calm serenity of temper, which nothing seemed to disturb. You never saw in him a shadow of ill-nature or moodiness or moroseness. He was not harsh or hasty in his judgments or censorious in his criticisms, though by no means incapable of an honest indignation which would flash out with withering severity at anything mean or low or dishonorable, unjust or oppressive. Most marked of all, in every relation of life, was his high purpose, his sturdy moral sense, his robust conscience, and his independence and courage.

Whatever may be the loss to this Society, to the profession, to the community, we may in some degree measure it and set it down; what it is to those bound to him in a friendship of near fifty

years — a friendship that had never known a break or a shadow — is not for words.

Mr. NOBLE then read the following paper on —

A TRIAL, IN 1685, FOR "FREQUENTING THE COLLEGE CONTRARY TO LAW."

Among the Early Court Files[1] I came the other day across a case somewhat more than two hundred years old, — not important in itself, but of some interest in certain ways. It gives a glimpse of Harvard College in those early days, brings out sharply some peculiar characteristics of Puritanic legislation, throws some side-lights on the social life and conditions of the times, and shows some early forms of legal pleadings. The case, furthermore, is an illustration of a characteristic regard for individual rights and for the enforcement of exact justice, as justice was understood, wherever a legal principle was involved, however insignificant the subject matter. It took place at a critical time in the history of the Colony: the Charter had been vacated the year before by a decree in Chancery; and Governor Bradstreet was nearing the end of his administration. It was also at an interesting point in the history of the College, then just completing its first half-century. Two Resident Fellows, or Tutors, constituted its whole Faculty. The Senior Class numbered fourteen men, the Juniors half as many, while the Freshman class seems to have been even a shade smaller than the one immortalized by Dr. Holmes as so "knocked about" by the Seniors. The only buildings were the Indian College and the new Harvard Hall built some eight years before, after urgent appeals and strenuous exertions. The College was without a President. The Rev. John Rogers had died in office the preceding July. The pleadings in this case refer tenderly to him as one "whose vigilance and authority were sedulously improved for the good of ye Students and preventing all disorders in y^{t} Society;" and Cotton Mather calls him "One of so sweet a Temper, that the Title of *Deliciæ humani Generis* might have on that Score been given him; and his Real *Piety* set off with the Accomplishments of a *Gentleman*, as a

[1] Suffolk Court Files, vol. xxviii, group-number 2.331.

Gem set in *Gold*." [1] Though bearing the title of Reverend he had never been ordained, and so has the distinction given him of being the first layman as well as "the first on the list of graduates of Harvard College who became its President [2]"; although his classmate Urian Oakes, and Leonard Hoar of the Class of 1650 preceded him in that office. While the case was pending, Increase Mather, who had been a Fellow of the College for some ten years, "by the unanimous desire of the Overseers," [3] was invited to "take special care for ye Government of ye Colledge; and for y^t^ end to act as President till a further settlem^t^ be orderly made;" [4] . . . "Priest, Politician and President at once," [5] he took the vacant chair, the first native-born American incumbent of it. Just as the case was concluding, John Leverett, afterward President, and William Brattle became Resident Fellows, to be for several years "the whole College Faculty, and to have . . . almost exclusive direction of the studies and discipline." [6] Thus the case, though a short one, is coincident with a number of events in the life of the College.

The Case is a criminal prosecution, in 1685, of one Samuel Gibson and two others "for frequenting the College contrary to law," and thus transgressing the law, established shortly after the founding of the Colony, entitled Children and Youth. It was begun in the County Court at Cambridge, and carried finally to the Court of last resort, the Court of Assistants, in whose records it holds its place among cases of murder, piracy, witchcraft and the gravest crimes, and civil cases involving all kinds of private rights and questions of public policy. Besides the final record in this volume, there are among the Files eight of the papers in the original case. The first is the Summons, or Warrant: —

To the Constable of Cambr.
In his Ma^tics^ name. On sight hereof, you are to warne Saml Gibson. Saml Goffe jun^r^ Zach: Hicks jun^r^. That they appeare before the

[1] Magnalia (edition of 1702), book iv., p. 130.

[2] Eliot's Sketch of the History of Harvard College, p. 25; Sibley's Harvard Graduates, i. 166, 167.

[3] Sibley's Harvard Graduates, i. 417.

[4] *Ibid.* i. 419.

[5] Eliot's Sketch of the History of Harvard College, p. 28.

[6] Sibley's Harvard Graduates, i. 423.

County Court now setting to answer for frequenting the colledge contrary to law. hereof make a true returne & faile not. dat. 8. 2. 1685.

By the Court.

JONATH. REMINGTON. *Clericg*

Endorsm^{t} I have warnd Sam$^{l.}$ Gibson. Samuel Goff jun^{r}. Zech: Hicks 8: 2: 1685.

JOHN GOVE *constable.*

Vera Copia

THO: DANFORTH. *Record$^{r.}$*

No complaint or indictment or other pleading appears, and the next paper contains all the evidence produced at the trial, or at least all that remains. It consists of the deposition of a fellow offender, escaping the vengeance of the law perhaps by turning State's evidence, and perhaps by reason of his tenderer years; together with the confession of the three culprits. The deposition, brief as it is, by its straightforward simplicity and graphic touches, brings the scene before us with all the enormity of the offence. The confession supplies whatever the deposition may lack of legal conclusiveness.

Jonathan Gatliffe aged about 16: years, saith that sometime this winter he was invited by Mr. Wainwright to eating a turkye in his chamber & it was after supper time in Colledge, where were also Sam: Gibson, Sam: Goffe jun$^{r.}$ Zach: Hecks & Isaac Wilson. Also he sayth that the next morning after y^{t} it was reported the missing of Mrs. Danforths turkeys. G^{m} Eccles boy told him that he saw feathers both of turkies & geese in Mr. Wainwrights chamber.

20. 1: 1684/5 JONATHAN GATLIFFE

Sam. Goff jun^{r}: Zechariah Hicks jun$^{r.}$ & Samuel Gibson appearing before the court confessed that they had accompanied with the students at Colledge & had been at the eating of a turkey at Mr. Wainwrights chamber, & that it was some time this last winter

Vera Copia THO: DANFORTH, *Record^{r}:*

The Mr. Wainwright in whose chamber the feast was held, appears by the Quinquennial Catalogue to have been Francis Wainwright of the Junior Class, — then just reaching his majority. His social standing is attested by the fact that his name heads the list of the Class of 1686; followed by that of Benjamin Lynde, in later

life Chief Justice of the Superior Court of Judicature. His father was a merchant of distinction in Ipswich, and the family one of wealth and prominence in the Colony, and well connected. His name appears among the Donors to Harvard College. In 1683, during his Sophomore year, he and two "fellow commoners" are recorded as having given "each a silver goblet." [1] After graduation he filled various civil offices in his County, and in military service was a Captain "on an expedition to the eastward" in 1696; "was Colonel of the Red, and second in command in the expedition under Colonel March against Port Royal in Nova Scotia, in 1707," in which office he seems to have been severely criticised. He held the same position in a second expedition, becoming the acting commander in it. Both expeditions proved unsuccessful. He died 3 August, 1711, on the eve of his second marriage, to Mrs. Elizabeth Hirst, giving Judge Sewall an opportunity to record in his Diary "the most compleat, and surprising Disapointment that I have been acquainted with." [2]

Goffe appears to have been the son of Edward Goffe, a large landholder, one of the wealthiest and most prominent citizens of Cambridge, and the successful and honored incumbent of various public offices. He was at the time some twenty-two years old. He inherited the Goffe homestead, a large tract near the present Beck Hall.[3]

Hicks, probably, was the son of Zechariah Hicks, another prominent and wealthy citizen. He was then a bachelor of twenty-eight, and living on the family estate which was on Brighton Street running from Winthrop Street to Mt. Auburn Street.[4]

The defendant must have been the Samuel Gibson who appears by the History of Cambridge [5] to have been the son of John Gibson, another well-to-do citizen. He was born 28 October, 1644, and consequently the veteran of the party. This was not his first transgression of the strictness of the old Colonial law. In the fall of 1672, some six years earlier than the solemn warning by the Overseers, mentioned hereafter, he was the defendant in a similar

[1] Eliot's Sketch of the History of Harvard College, p. 166. See also Quincy's History of Harvard University (edition of 1860), i. 513.

[2] Sibley's Harvard Graduates iii. 354, 355; and Sewall's Diary, ii. 320.

[3] Paige's History of Cambridge, p. 562.

[4] *Ibid.* p. 580.

[5] *Ibid.* pp. 558, 559.

trial "for enterteyning some of the Studᵗˢ contrary to Law."[1]

The Warrant in that case runs thus: —

To the Constable of Cambr.

In his Maᵗⁱᵉˢ name you are required to warne Samuel Gibson, Mʳ Edw: Pelham, & Jnº Wise that they all appeare before such of ye Magᵗˢ as shall be pʳsent this 23 of this instant abᵗ 5: of ye clock in after noon at ye house of Capt. Daniel Gookin, then & there to answʳ ye complaynt of ye sd Capᵗ, for stealing away one of his turkies, shooting them & other fowles in a theevesh manner, & ye sd Gibson for enterteyneing them at his house, & being an abbettor to them in this their wickednes, and for witnesses you ar to warne such as ye Capᵗ. shall name to you & herof you are to make a true returne under yoʳ hand & faile not at yoʳ perill

dat. 23: 7: 72. Tho: Danforth, *Assisᵗ*

This warrent was served upon Samuell Gibson accordinge to the Tenor of it by me John Gove *Constaᵇˡ*

23 (7) 72.

The Bond given was as follows: —

Samuell Gibson, as principle, & Wᵐ Barratt, & Joseph Sill, as suretyes do acknowledge yᵐˢ, to stand bound Joyntly & sevrally by them to be forfeited & paye to ye Trer of ye Coun. the said Gibson in 5ˡᵇ and Suretyes in 50ˢ apᵉ. On condition that ye sd Gibson shall personally appeare at ye next Coun Court to be held at this Towne then & there to answʳ ye complaynt yᵗ hath been exhibited agᵗ him for confederating with Mʳ Edw: Pelham & some others in dressing & eating a stoalen turkie, and yᵗ he shall abide ye order of the Court & and not depart without license:

23. 7. 1672.

Samuell Gibson
William Barrett
Joseph Sill

Taken ye day & year above written before Th: Danforth.

The story is well and briefly told by one perhaps unwittingly and unwillingly drawn into the affair: —

Urian Oakes aged 14: yeares & upward do testefie that about 10, dayes since, he & percifell Greene being gathering up fruite in the Marshals

[1] Middlesex County Court Files, October Term, 1672. *Cf.* Paige's History of Cambridge, p. 226; and Sibley's Harvard Graduates, ii. 416, 417.

orchard, Mr Edw: Pelham came to them with a fowling peece in his hand, & desired him to shoot a fowle of G^m^ Farlongs, & when he was disapoynted there, he brought him to ye fence between ye Marshals yard & Capt. Gookins, where sat a turki, & desired him to shoot y^t^, wch he accordingly did, & ye fowle being killed ye s^d^ Pelham tooke ye coate of ye s^d^ Urean & wrapt up the turkie in it, & sent it by Percifall Greene to Samuel Gibsons & bid him leave it at said Gibsons house."

There is preserved the following deposition of another actor: —

Percefall Greene aged about 12: yeares & upwards do say y^t^ ye testimony of Urian Oakes is ye truth, & y^t^ he did cary ye said turkie to ye abovenamed Samuel Gibsons, & leave it in his dwelling house.

Gibson's confession and that of his wife follow: —

Samuel Gibson being examined, do confesse y^t^ about 10 dayes sence, Percifall Greene came to his house, & brought a turkie wrapt up in a coate, & left it there, and was dressed by his wife, and baked in the oven, and in the night following it was eaten, by Mr Pelham, Jno Wise, & Russell Stud^ts^ & [ ] & Wise & Russell said that s^d^ Pelham did [ ].

Goodwife Gibson his wife do confesse y^t^ w^t^ is above related is ye truth, & y^t^ shee suspected it not to be stoalen, bec^e^: that Mr Pelham said he came by it honestly, & was frequently at their house.

The final record[1] is as follows: —

At a coun̄ Court held at Cambridge
Octob 1. 1672.
Present. Capt. Daniel Gookin
Mr Richd Russell
Thomas Danforth. Cl . . . . . .

Samuel Gibson, being convicted of enterteyneing some of the Stud^ts^ contrary to law, is sentenced to be admonished, and to pay a fine of forty shillings in money, and he stands com̄itted untill it be p^d^.

Of the actors in this little drama, Edward Pelham, of the Class of 1673, then just entering upon his Senior year, was the son of Herbert Pelham, the first Treasurer of the College.[2] Young Pelham, according to all accounts, was a wild fellow, — a cause of

[1] Middlesex County Court Records, iii. 35, 37.

[2] Sibley's Harvard Graduates, ii. 416; and Paige's History of Cambridge, pp. 625, 626.

anxiety to his father, as appears by his will dated 1 January, 1672–73. The Pelhams lived on the northwest corner of Dunster and South Streets, formerly the residence of Gov. Thomas Dudley.[1] John Wise, his Classmate, was afterward a prominent clergyman of Ipswich, "the first man in America ever known to *oppose* TAXATION WITHOUT REPRESENTATION"; [2] and Jonathan Russell (H.C. 1675), a Sophomore, was afterward settled as a minister in Barnstable.[3] Percival Green (H. C. 1680) was a Cambridge boy; upon graduating, he studied divinity, and after a short settlement in Wells, Maine, died young.[4] The boy Oakes, who graduated in 1678, and died the following year, was the son of Urian Oakes, who was afterward President of the College, and at this time had recently entered on his ministry over the Cambridge church.[5] Gookin's name gives a kind of historic interest to the scene of the fatal shot.

"The Marshal's orchard" and "yard" belonged to Edward Mitchelson, appointed by the General Court, 20 November, 1637, Marshal-General of the Colony,[6] — an office equivalent to that of High Sheriff, and held by him till his death, 7 March, 1680–81, at the age of seventy-seven. This estate, where he lived in 1672, was on the northeasterly corner of Massachusetts Avenue and Holyoke Street, extending easterly to Bow Street, and was formerly the homestead of Major Samuel Shepard,[7] by whom it was conveyed to him, 29 October, 1650. The house stood at the westerly end of the lot, nearly opposite the residence of his half-brother, Rev. Thomas Shepard, which occupied the present site of Boylston Hall.[8]

Adjoining, on the south, the estate of the Marshal, about one hundred feet from Massachusetts Avenue, was General Gookin's homestead, — an estate which he had bought of Deacon Edward Collins, — the site of which is now occupied, in part, by the Hasty Pudding Club, — on the easterly side of Holyoke Street.[9]

[1] Paige's History of Cambridge, p. 625.

[2] Sibley's Harvard Graduates, ii. 428.

[3] *Ibid.* ii. 455.

[4] *Ibid.* iii. 208.

[5] *Ibid.* iii. 169.

[6] Massachusetts Colony Records, i. 217.

[7] See *ante*, p. 420 and *note*.

[8] The Proprietors' Records of Cambridge, p. 77; Paige's History of Cambridge, pp. xv, xvii, 610, 653.

[9] The Proprietors' Records of Cambridge, p. 88; Paige's History of Cambridge, pp. xv, xvii, 512, 564. The doubt which Paige records as to Gookin's *occupancy* of this estate is removed by Oakes's deposition.

At this same Term Gibson was involved in another suit, which from its coincidence in date would seem to have had some connection with the other. Only the Warrant, however, and a suggestive Bill of Particulars remain among the Files, and there is no Record; so we are left to conjecture what lawless reprisal, or failure of credit, or vindictive prosecution, or other cause may underlie the case.[1] Somewhat later he again appears upon the Court Records, with characteristic versatility and success.[2]

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[1] I.

To the Constable of Cambridge.

In his Maties name.

you are required to warne Samuel Gebson that he appeare at the Court to be held to morrow at this Towne then and there to answ^r^ for wrong doing, fraudelency & injustice to Herbert Pelham, Esqr. by receiveing & taking his sonnes Apparll then stud^t^ of Harvard Colledge, & under Age of 21 : yeares, without consent of Parents, Guardian, Tutor, or other y^t^ [have ?] ye dispose & goverm^t^ of him, & concealing & deteyning ye same from y^m^ contrary to rules of justice & equity, and her of you are to mak a true return under your hand & not to faile. date 30. 7. 1672.

THOMAS DANFORTH, *Assis^t^.*

This warrent was served upon Samuell Gibson according to the Tenor of it by me JOHN GOUE

1 (8) 82 *Consta^l^*

[Endorsed] Warrant for Saml. Gibson.

II.

Apparrell y^t^ Samuel Gibson hath had of Mr Pelhams sonne.

1 p^r.^ of new breeches conteyneing 3 yd^s.^ Devonshir Kersie. 8^s^ yd.	01 — 04 — 0
To making, 2^s^ 6^d.^ Pockets. thred, & silk 18^d^	00 — 04 — 0
1 Great Coate of bro. cloath. 24^s.^ yds. 2 : yds. ¾ [*sic*] — is 3^s.^ 00 — 00	
making & tremeng. 00 — 06 — 00	
3 : 06. 00	
Abate ye ½ for w^t^ it had been worn, the remainder is	01 — 13 — 00
The whole is	03 — 01 — 00

— (Middlesex County Court Files, October Term, 1672)

[2] At a County Court held at Charlestown Dec. 15, 1674. . . . Samuel Gibson appearing before the Court to answer the p^r^ sentm^t^ of the Grand Jury for a pound breach. He is convicted of being guilty thereof, & to pay costs, & the fine imposed by law is respited untill next Court. — Middlesex County Court Records, iii. 107.

At a County Court held at Cambridge April 6, 1675. . . . Samuel Gibson

Gibson's occupation is given as that of a glover. Where he acquired his legal knowledge and skill does not appear, unless it was in the school of personal experience. He figures in history as a persistent and uncompromising litigant, who never acknowledged defeat; who fought a case from court to court, and when defeated, invoked the aid of the Great and General Court itself. Two famous cases bring his name into prominence, — Nathaniel Oliver's

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appearing before the Court & refusing to take the Oath tendred for clearing hims: of a Pound breach. The Court ordered y^t^ the fine should be respited untill the Court gave further order. — *Ibid.* iii. 112.

At a County Court held at Cambridge, by speciall order of the Gen^ll^ Court. Decemb^r^ 18, 1678. . . . Samuel Gibson appearing before the Court, On vehement suspicon of his breaking open the house of Elizabeth Belcher, & stealing a p^s^ of linnen. On his examination he stands convicted of being out unseasonably, neere to ye place where the aboves^d^ damage was done and not giveing a sattisfactory answ^r^ to the Court of his being abroad so unseasonably at the s^d^ place, he is sentenced to pay a fine of forty shill: money, or to ly in Bridwell three dayes.

Samuel Gibson made his Appeale to ye next Court of Assist^ts^.

Samuel Gibson as principle in five pounds Nath^ll^. Hancock & Jno. Gibson as his suretyes in 50^li^ a p^e^, do acknowledge y^mes^ to stand bound Joyntly & severally to the Trēr of the Coun. On Condiccon that Samuel Gibson shall prossecute his appeale to effect as the law injoynes And y^t^ in ye meane time he shall be of the good behavio^r^. — *Ibid.* iii. 238, 239.

To the Honoured Countye Courte now Seting in Cambridge.

The humble Petition of Samuell Gibson sheweth that whereas your poore petitioner was bound ouer to the last Courte of this Countye upon ye Complainte of Mrs Belcher whoe had suffered wronge in her Goods by night and your Petitioner being found abroade from his habitation ye same night did give your honours Reason to adjuge your Petitioner to paye fortye shilings as a fine to ye Countye, but because your humble Petition^r^ do knowe & professe his ignorance & inocencey of anye hurte done to any bodye or Goods at y^t^ time, & for his owne parte in that matter can bringe the testimoney (as your honours have ben alredy inform^d^ of Sam^ll^ Goffe & Sam^ll^ Green, therefore I humbly intreate y^t^ my Bonds of appeale maye bee made Nulle & voyade with ye remition of my fine and it shall oblige mee in toake[n] of Thankefullnes always to praye for yor Honours happines

Sam^ll^ Gibson.

— (Middlesex County Court Files, October Term, 1678).

The Appeal seems never to have been entered in the Court of Assistants, as its Records show no such case. The Petition, presumably, was granted.

case, and the case of Gove *v.* Gibson.[1] The similarity of the style and character of his pleadings with that in the present case is

[1] Oliver's Case. — At the "Court of Common pleas holden at Edgertown Octb^{r} 1st 95 Mr Samuell Gibson atturnnie to Nathaniel Oliver appeared." Upon a plea to the jurisdiction the cause was "adjudged to be dismist." The "petion^{r} by his Attorney appealed." His appeal was refused. Oliver then petitioned the General Court "to take this mighty breach upon the undoubted Right of the Subject and laws of this Land, into yor most Serious Consideration & provide Some Redress for so great a Grievance." The General Court directed a hearing. When it came on "Matthew Mayhew Esqr One of the said Justices Appeared & Justified the Denial" for want of "Jurisdiction . . . within Elsabeth Islands." The justification was adjudged good. — Province Laws, vii. pp. 110, 494–496. The identity of Gibson, in *this* case, while not absolutely established, is made reasonably certain by many circumstances.

Gove *v.* Gibson. — Samuel Gibson, the defendant in an action brought by John Gove of Cambridge "before Joseph Lynde one of their Majesties Justices of Peace" for "Trespas for cuting and cariing four trees, . . . plead that the Land upon which the Trees were cut did not belong to the Plant^{re} but to the Town of Cambridge, whereof the Defend^{t} was an Inhabitant and Proprietor," and to the jurisdiction "for that the Title of Land was concern'd." . . . "Judgment was giuen for the plaintif," and "defen^{dt} apealed to the next Court of Common pleas." To his Reasons of Appeal signed by himself, assigning as the only ground want of jurisdiction, Anthony Checkley filed the Answers. At the September Term, 1695, "The Court . . . find the Judgment good. . ." &c.

Gibson then petitioned the General Court for "direction and assistance therein," having "no relief or remedy in the premises in the ordinary course of Law;" assigning as his grievance that the plea to the jurisdiction "being overruled at ye Inferiour Court, Judgement ought not to have been given finally and peremptorily, but he ought to have been permitted to plead issueably." The General Court voted him a hearing. The two branches disagreed; conferences were ineffectual, and the matter slumbered till 1702, when Gibson presented another petition for a hearing, which was granted. This not coming off, Gibson again petitioned. This hearing was twice deferred. Finally, 5 November, 1703, the General Court —

"*Ordered*, That there be a full hearing of the said Cause upon the merits thereof at the next Inferiour Court of Common Pleas within the County of Middlesex. And the said Court is hereby directed and Impouered, to receive and hear the said Cause, And to do therein that which to Justice pertaineth according to Law."

At the trial the former judgment was reversed. Gove appealed, and the case was concluded in the appellate Court at the July Term, 1704, the Court determining that in the Inferior Court of Common Pleas, "the Tryal of the s^{d} Cause being in the nature of an Appeal from Mr Justice Lynde, the order of that Court is final & the Appellant can take nothing by his Appeal." (Records of the Superior Court of Judicature, iii. 129.) However barren the

striking. Not less marked is the persistent assertion of legal rights, the acuteness in taking technical points, and the forcible way of putting them, as well as the pertinacity of defence. These two cases are also interesting as showing how carefully and exactly, and with what sharp distinctions, the Courts of that early day could handle a question of law. They also illustrate the relation then existing between the legislative and the judicial branches of the government. Gibson died 20 March, 1709–10.

Who Isaac Wilson was, though his name is embalmed in these old records, history does not show. He may have been the Isaac born 24 August, 1658, the son of Nathaniel Wilson of Roxbury,

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victory, Gibson was at the last left in possession of the field. (Province Laws, vii. 111, 354, 369, 496–498, 728–730, 745; and viii. 9, 30–31, 263, 309, 310.)

There is also in the office of the Clerk of the Supreme Judicial Court in Boston a collection of papers originally used in different stages of the trial, — thirteen in number, petitions, orders of the General Court, pleadings, &c. (Suffolk Court Files, vol. lxi., group-number 6171.)

Gibson also appears as attorney for the plaintiff in Oliver *v.* Ray. (Suffolk Court Files, vol. dlxiv., group-number 1301, — "Fragments," Two papers.)

Mr. Goodell's Notes give a full history of the cases with complete transcripts from the Massachusetts Archives, Council Records, and Court Records. Too high an estimate can hardly be put on the value of these Notes to the several volumes of the Province Laws issued by Mr. Goodell. With indefatigable research, judgment, and exhaustive knowledge, a wealth of material has been gathered for the illustration of the legislation of that period. Law is not an exact science like mathematics, where what is true once is true for all time, and where results can be ciphered out, — it needs the light of History as an adjunct. And so of Laws, — a mere compilation is comparatively a barren schedule of enactments. The material here collected, from sources often not readily accessible and to a great degree unrecognized before, is ready for instant use. It is not merely for the antiquary, the genealogist, the sociologist, and the historian, but equally or more for the legislator, the lawyer, the judge, and the student of jurisprudence.

In conversation with one of our associates, the late Mr. Justice Devens, not long before his death, bestowed the highest praise upon Mr. Goodell's method of editing the Province Laws, referring especially to the value of his elaborate Notes, adding: "We often hear it said that Mr. Goodell's work is valuable only to the antiquary and genealogist; and yet in this very case of which I have been speaking, it would have been *impossible* for the Court to do justice as between the litigants without the aid of Mr. Goodell's unique and matchless work." In some three hundred cases the Province Laws have been cited in the Massachusetts Reports, and in many of these cases the Opinions show that much of the historical information which they contain was drawn from these Notes.

who moved later to Cambridge Village, where he owned some one hundred and fifty acres;[1] or an Isaac Wilson of Newton who was married in 1685.[2]

Goodman Richard Eccles, whose "boy" had seen the feathers, was a weaver who lived on the westerly corner of Brattle and Ash Streets. He had no *son* living in 1684.[3]

Jonathan Gatliffe, apparently, was a Boston boy, belonging to a family of substantial means, the son of Jonathan Gatliffe, described as "sometime of Boston, Mariner," who was the "only sonne" of Thomas, of Braintree.[4]

Nathaniel Hancock, who appears upon the Bond, was a prominent man of some fifty years, the holder of various offices in Cambridge, one of which would seem to have required rare discretion, as one of a Committee of three "to have inspection into families that there be no bye drinking or any misdemeanour whereby sin is committed," &c., in 1675–76; and in 1705, he was a Deacon of the church.[5]

His fellow-surety upon the Bond, John Gibson, was evidently the father of the defendant, a substantial man of Cambridge, who lived near where are now Sparks Street and Garden Street.[6]

[1] Jackson's History of Newton, p. 445. [2] *Ibid.* p. 446.

[3] Paige's History of Cambridge, pp. 20 *note*, 540.

[4] The father died about 1676, and his estate had not been fully administered in 1700. In 1678, "during their nonage," Jonathan and his brother Thomas were put under the guardianship of John Fayerweather and Arthur Mason, of Boston, and Amos Richardson, of Stonington, Conn., the maternal grandfather of the boys. (Suffolk Probate Files, Nos. 341, 811, 946.) This grandfather seems to have been well endowed with prudence and foresight and landed property. In 1673 he conveys to his —

"Son in Law . . . as a portion with his Wife, . . . in Consideracõn of my parentall Loue to Jonathan Gatliffe of Boston in New England aforeSaid Marriner & his wife Mary Gatliffe my Eldest Daughter & of their Filiall afection to Mee . . . all that my house & Land Lieing & beeing in Boston afores^{d}, which for Seuerall years past hath bin in the Possession & tenu^{r} of him the Said Jonathan Gatliffe . . . And also a farme in Stoneington aforeS^{d} of two hundred Acres of Land . . . & Also halfe of my Land by the Dock . . . in Boston aforeSaid . . . in fee . . . Prouided always that the premisses nor any part thereof shall not be Sold by the Said Jonathan Gatliue except vpon an Imergent ocation to redeeme him out of Captiuty in case hee should be taken in Slauery or for the Sustentation of his family in case of Diuine prouidence by Sickness or losses reducing him to pouerty."

Anthony Checkley was one of the witnesses to the deed, which was acknowledged before Edward Tyng, Assis^{t}. — (Suffolk Deeds, viii. 290.)

[5] Paige's History of Cambridge, pp. 97, 572. [6] *Ibid.* p. 558.

The unfortunate sufferer from the lawless depredations and lax ideas of property bore an honored name, and there is reason to suppose that she was the wife of Thomas Danforth who was so illustrious in the history of the Colony and the Province, whose various positions of trust and honor can scarcely be enumerated, — Selectman, Town Clerk, Representative, Assistant for twenty years, Deputy Governor for ten, President of the District of Maine, Councillor, Judge, Treasurer of Harvard College and of Middlesex County for years, Commissioner of the United Colonies, and Recorder for thirty-eight years, in which last capacity he copied and attested most of the papers used in this trial. His large estates of over two hundred acres were in the neighborhood of Jarvis and Holmes Fields so well known to the students of to-day, and also included the northeast portion of the College Yard and the Delta.[1]

Then follows a copy of the record of the County Court: —

At a Coun Court held at Cambr. Apr. 7. 1685. Samuel Goff jun^{r}. Zechariah Hicks jun^{r}. & Samuel Gibson appearing before the Court & convicted of transgresseng the law. tit. children & youth. sect. 3:

The s$^{d.}$ Samuel Goff & Zechariah Hicks, it being the first time of their conviction, are sentenced to be admoneshed & pay costs.

The s$^{d.}$ Gibson having been formerly convicted & sollemnly warned by the overseers of the Colledge not to frequent the company of the schollars as appears by Record thereof made. 21. 3: 1678 in the Colledge books, is sentenced To pay a fine of forty shill: & costs.

Samuel Gibson made his Appeale to y^{e} next Court of Assistants & gave bond to prosecute as the law directs.

Vera Copia THO: DANFORTH, *Record^{r}*

The evidence of the former offence, which was the ground of the discrimination in punishment, is a copy from the Records of the Overseers produced at the trial, and is as follows: —

Extracted out of the Records of the Acts of the hon^{ble} Overseers of Harvard Colledge. At a meeting of the overseers at Cambridge 21. 3. 1678.

[1] Paige's History of Cambridge, p. 530.

Present.

The Governor
Mr. Bradstreet
Mr. Gookin
Mr. Ting
Mr. Dudley
Mr. Elyot
Mr. Shearman
Mr. Thatcher
Mr. Allen.

Samuel Gibson was called before the Overseers & sollemnly cautioned of enterteyning any of the students in his house, frequenting the Colledges or drawing them other wise into his company.

Vera Copia

THO: DANFORTH. *Clericg.*

This solemn caution and admonition occurred in the acting presidency of the Rev. Urian Oakes, "a man of bright parts, extensive learning and exalted piety,"[1] . . . who "did the Services of a *Præsident* even, as he did all other Services, Faithfully, Learnedly, Indefatigably;"[2] and, "again unanimously chosen President"[3] 2 February, 1679–80, died in office, less than two years after his inauguration.

The law transgressed is an illustration of the early legislation of the Colony. It had been in force from about the time of the foundation of the College. It shows the stress which the Puritans laid upon "the good Education of Children," as "of Singular behoofe and benefitt to any Commonwealth," and how the civil authority stepped in to regulate private morals and manners, and meet the shortcomings of parents, masters, and natural guardians. It was not content to leave such matters to the influence of public opinion or the individual sense of right and wrong, but brought in the strong arm of the law. All through its legislation the Puritan Commonwealth seems to have regarded the community rather than the individual.

The law on which the prosecution was based is the third section of the Chapter entitled Children and Youth, and is as follows: —

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[1] Peirce's History of Harvard University, p. 45.
[2] Magnalia (edition 1702), book iv., page 129.
[3] Sibley's Harvard Graduates, i. 179.

Children & Youth.

FOrasmuch as the good education of children is of singular behooſe & benefitt to any Common-wealth, & whereas many parents & masters are too indulgent & negligent of their duty in that kind . . . . [1642].

3. *Upon information of diverſe looſe, vaine and corrupt perſons, both ſuch as come from forraine parts, as alſo ſome others here inhabiting or reſiding, which inſinuate themſelves into the fellowſhip, of the young people of this Country, drawing them both by night, and by day, from their callings, ſtudyes, & honeſt occupations, & lodging places, to the diſhonour of God and greif of their parents, Masters, Teachers, Tutors, Guardians, Overſeers &c :* It is Ordered by this Court and the Authority thereof That whoſoever ſhall any wayes cauſe or ſuffer any young people or perſons whatſoever whether children, ſervants, apprentices, ſchollers belonging to the Colledg, or any Latine ſchoole, to ſpend any of their time or eſtate, by night or day, in his or their company, ſhip or other veſſel, ſhop or houſe, whether Ordinary, Tavern, victualing houſe, cellar or other place where they have to doe, and ſhall not from time to time, diſcharge and haſten all ſuch youths, to their ſeveral imployments & places of abode, or lodging aforeſajd, if their being in any ſuch place, be known to them, or any other ſervant or help in the family, or ſupplying the place of a ſervant at ſea or on land, that then ſuch perſon, houſeholder, ſhop-keeper, ſhip-maſter, ordinary keeper, taverner, victualler, or other ſhall forfeit the sum of *forty ſhillings* upon legal conviction before any Magiſtrate, or the commiſſioners authorized to end ſmall cauſes, one half to the informer, the other half to the Country; and all Conſtables in their ſeveral limits, are required to act herein as is provided in reference to the Law concerning inkeepers.[1]

Just how the prosecution was started, whether by the governing Boards of the College or by the civil authorities, no papers have escaped the wasting hand of time to tell.

The College from the time of its founding was an object of peculiar solicitude. Not only were its governing Boards watchful and strict, but Church, ministers, magistrates, and people shared in the interest in its concerns, and felt a right, if not of super-

[1] Colonial Laws of Massachusetts, 1660 (Whitmore's edition), pp. 136, 137.

vision, at least of criticism. All along this particular period are frequent instances. Some dozen years earlier than this was the —

"humble Petition of John Eliot and some twenty others," in the name "of some of the people that lyve under the Jurisdiction of the Massachusets government unto our honoured Magistrates . . . to indevor the removal of an evyl . . . in the educasion of Youth at the colledg, . . . that they are brought up in such pride as doth no wayes become such as are brought up for the holy service of the lord, either in the Magistracy, or Ministry especialy, and in perticular in their long haire, which lust first tooke head and brake out at the Colledg, . . . and now it is got into our pulpets to the great greife and offence of many godly hearts in the Country," and questioning "whether all other lusts which have so incorigibly brake in upon our youth, have not first sprung from the incorigablenesse of this lust."[1]

Some eight years after this trial the Corporation felt constrained to make an attack upon another flagrant cause of offence: —

"The Corporation having been informed that the custom taken up in the College, not used in any other Universities, for the Commencers to have plumb-cake, is dishonourable to the College, not grateful to wise men, and chargeable to the parents of the Commencers, do therefore put an end to that custom, and do hereby order that no Commencer or other Scholar, shall have any such cakes in their studies or chambers," . . .[2]

under the penalty of a fine of "twenty shillings for each such offence," and — what perhaps would be more keenly felt — the loss of the cakes.

Such instances and others, and this very trial, bring out the contrast between the rigor and austerity of those times and the laxer ideas of the present. No less striking is that between the position of the College of those early days and its independent and self-centred attitude to-day. Possibly the necessity of even greater strictness and severity began to be felt just now as this seventeenth century was drawing to its close. A change in manners had begun to appear. There had been inroads upon the old Puritanic simplicity and severity, and a spirit of license was cropping out. The College was feeling its influence. The quiet

[1] Suffolk Court Files, vol. xii, group-number 1.174.

[2] Records of the Corporation of Harvard College, 22 June, 1693.

solemnity that marked the Commencement Day of 1642 and the succeeding years had gone. It was beginning to be the great holiday of the surrounding country, with an increasing lawlessness and disorder that before the end of the century made "the attendance of justices of the peace, a police guard by day and a watch by night, for several days and nights together,"[1] a necessary adjunct of the occasion.

The defendant, having been convicted in the County Court, felt that a great principle was at stake, that an inalienable right had been assailed, and that it devolved on him to assert and maintain the "unquestionable truth that law is the people's birthright," and took his appeal to the ultimate authority. His recognizance has been roughly dealt with by time, and in parts is undecipherable.

Sam: Gibson as principall & John Gibson & Na[th]. Hancock as his suretyes do acknowledge the [ ] to stand bound joyntly & severally in five p [ ] a peice by them to be forfeited & paid [ ] Trear of the County: on Condition th [ ] Samuel Gibson shall prosecute his appeale [ ] this court at next Court of Assistants & in th [ ] time shall be of good abearance & more [ ] shall not transgress ag[t]. the law. tit. ch[youth with reference to the students of [ ] Colledge,

SAM[L]. GIB [ ]
JOHN GIB [ ]
NATH: HA [ ]

10. 2. 85.
Before
THO: DANFORTH. *R.*

Vera Copia
THO: DANFORTH

Gibson's Reasons of Appeal were entered in the Court of Assistants 6 August, 1685. Like all such papers they throw light upon the forms of judicial procedure at the time. They are a somewhat curious specimen of the crude forms of early pleadings. There is a mixture of legal logic of some acuteness and forensic appeal, in quaint and striking, not to say questionable, orthography that disdains the trammels of the customary and commonplace.

Samuell Gibson his Reasons of Appeale from the County Court held at Cambridge 7: 2: month 1685 to the honred Court of Assistance to sitt in Boston y[e] first of septembar 1685

[1] Eliot's Sk[illegible]ch of the History of Harvard College, p. 33.

Before I come to ye Case give me Leave to premise that as it is an unquestionable truth that law is the peopls birthright so our first law saith Among other things no mans goods or estate shall be taken away from him or any wayes indamaged under colour of law or countanance of Authoritye unles it be by vertue of sume expres law of ye cuntrey waranting the same & established by ye Gen.^ll^ Court & sufficiently publeshed.

I am summoned by a warant directed to ye constable of Cambredge which Requires him to warn Sam^ll^ Gibson Sam^ll^ Goffe Zachriah hicks juni^r^. to apere before the county court now sitting to answar for frequenting the Colledg contrary to law se said warant but no law of the Massachusets estableshed by a Genrall Court prohibits me or any else fraquenting the Colledge much les going to the Coledge about my lawfull busnes & ocasion or being invited & wheare no law no transgresion & thearfore I appeale & where no law broken no fine oute to be imposed there is indede an extracte of coledge Records which as I humbly consave has no forse against me for I was not then accused for frequenting the colledge.

2. I now come to the judgment which saith said Gibson having bene formerly convicted & solomly warned by ye oversers of ye coledge not to frequent the coledge or drawing them in to his company as aperes by Record thereof made 21 : 3 1678 in ye coledge Booke : is sentensed to pay a fine of 40^s^ & costs but to whom or what law broken is not said indede at the top of the judgment is expresed that Saml Gibson appering stands convicted of transgresing the law titell children & youth sect. 3 to that I shall say too things first that I was not convicted secondly I say this ye fore sited law doth not at all condemne me of the breach of it & for that eand I desire the law may be Read brefly it saith thus that whosoever shall caus or suffer any young persons to spend there time or estate by night or by day in his or there company hous shop or vesell or wheare he hath to doe but I did nither nor had I powr to discharde any from coledge whear I had nothing to doe but to goe upon a civill invitation & to Resave money due to me at ye same chamber as was declared at ye coun^t^ court & should I have done it would have bene very unsivell I being no ofiser in coledge nor publick offiser in ye toun & now Gentellmen of ye jury Give me libarty to minde you that you are under oath to give judgment acording to evidenc & the lawes of this jurisdiction & to judge the case acording to former Evidenc & no other & if on your nrrow search into the law fore sited compared with other lawes to say nothing of that coledge Record which is no law & if I be found A transgreser of our lawes I desire no more favour then the law alowes which is due to me as well as any other of his majesties

subjects whatsoever & so your appalant craves that this honred Court & Gentellmen of the Jury there considrasion that he may have Reliefe here in so I am under submision

your Honours
SAM^{LL} GIBSON

Received. 27. 6. 85.
by THO: DANFORTH, *Record^{r}*.

The Answer to the Reasons of Appeal is of much the same character. It is more formal and elaborate, has less of the layman's hand about it, and adheres more closely to the recognized precedents of law and language. It has besides many distinct peculiarities of its own.

Answers to Samuel Gibsons Reasons of Appeale from the Sentence of the County Court at Cambridge. 7. 2. 85

To the Hon^{d} Court of Assistants now sitting

His first plea is That there is no Law of the Mattachusetts established by Gen^{ll}. Court y^{t} prohibitts him or any from frequenting the Colledge.

In answer to which it ought to be considered.

1. That the Colledge is a Society legally stated by Charter from the Gen^{ll}. Court [vid. Law: Tit. Colledge] wherein powr is granted to the overseers thereof to institute, guide & manage s^{d}. Colledge.

2. That the overseers saw Reason to prohibitt Saml. Gibson frequenting sd place or of Enterteyning any of the students in his house [vid. Colledge Records] wherein they passed not beyond the limmitts of their pour granted to them to act for the good of s^{d} Society: Every head of a family having pour to warne any whose manners they disapprove from frequenting their house, or otherwise insinuating themselvs into the Company of those Committed to y^{r}. Government.

To his Second Plea [That he was not convicted of transgressing the Law Tit. Children & youth. Sect. 3 alleadging that he did neither cause nor suffer young persons to spend their time or estate, by night or day, in his company, shop, house or where he has to do & y^{t} he had no pour to discharge them from the Colledge. This may suffice in way of Answer.

It is a known Maxim in Law Mens Legis est Lex. The Preface of the afore named Law shews both the occasion & end of it, that is, To prevent the mispence of time by youth to Gods dishonour & to the Grefe of y^{r}. Parents, Overseer &c. y^{t} is occasioned thereby. If it be a transgression of s^{d} Law to enterteyn persons under Government of others, in his own house w^{r} he has pour to discharge them, much more to go to

a students chamber, Merchants warehouse or such like, & then to occasion such as are under Government of others to mispend theyr time & estate. The words of s^{d} Law are these "[whosoever shall any ways cause or suffer any young people or persons to spend any of their time & estate, by night or by day in his or theyr company]" And it did appeare to the Hon^{d} County Court, That s^{d} Gibson had [both caused & suffred some of ye Schollars belonging to ye Colledge to spend both theyr time & estate in his company] In that he had not withstanding the former prohibition repayred to the Colledge & then accompanied the schollars in feasting at one of the Students Chambers, in the night time. [vid: Gatliffs test & the plantiffs confession]. Now granting he had no pour to discharge them from y^{r} Chambers, yet was it in his own pour, as well as his own duty, to have kept himselfe from thence.

And all this was by him done & acted to the great greif of the Overseers of the Colledge who had sollemnly cautiond him to a forbearance.

To his plea [That he was invited & went to receive mony due to him this may be considered in way of Answer

1. There was no Evidence produced in Court of his performing any such necessary business.

2. Were it true y^{t} he were invited, It ought to be enquired by whom? He never yet pleaded that any that had the Government of the Colledge did invite him or did allow thereof. It would not be accounted a good plea had any Master of a family complaind against him for frequenting his house against warning to forbeare; for him to say The Servant invited him to a Treatment in his masters house. But would greatly aggravate his offence, thereby occasioning the servant to mispend this masters estate as well as time. And it is an evil y^{t} parents who with great difficulty do bring up y^{r} Children in liberall Education are much greived at, theyr Estates being thereby exhausted & theyr children debauched by vain & loose persons frequenting y^{r} chambers.

Now although it be not necessary in point of Law to declare the aggravating Circumstances in this Case, yet seeing ye plant: hath greatly accused ye Court of illegall & hard usage It may have a tendence to sattisfy such whose minds have been prejudiced by the plantiffs reproachfull tounge. And is briefly thus.

The Lord having (as is well known) by death removed the late Reverend President whose vigilance and authority was sedulously improved for the good of ye students & preventing all disorders in y^{t} Society; The plantiffe & sundry others yt were his companions in disorder did make it y^{r} opportunity to play y^{r} Reaks in ye Colledge more y^{n} formerly some of y^{m} staying y^{r} the whole night, & they continued so to do untill a discovery was made of their wicked doings; and their manner was this

winter last past y^r to meet together night after night & theyr mispence of time was not all but they did drive a Trade of stealing Turkies, Geese & other fowle untill they had so cloyd themselvs that they left them stinking in some of the chambers & studies of the students before they could get y^m dressed. And one of y^m so smelt into ye Towne, as it occasioned sundry persons to be examind, when it appeard that Samuel Gibson was one of sd Company feasting in one of the Students chambers more y^n once & y^t he was partaker with y^m in y^r stollen Turkyes. And when one of sd Company was so troubled about his evil doing that he told the plantiffe he was resolved to confess his sin & make his peace with those he had wrongd. yet this notwithstanding the plantiffe did not only conceale ye matter himselfe, but was discouraging him who was more ingenious y^n himselfe. And of this there will be full proof w^n the matter shall come to an orderly examination. The premises considered & compared with the Evidences on file, it will appeare

1: That the plantiff Saml Gibson was by ye Hon^d & Revd Overseers of the Colledge (so constituted & impowred by ye Gen^{ll}. Court) sollemnly cautioned & warned not to frequent the Colledge.

2. That since that time the plantiffe hath again been at one of ye students chambers where was at ye same time with him a confluenc of students from other chambers & others y^t were the Companions of ye plantiffe, & of this his going thither no sattisfactory Reason appeared to ye Court that gave judgment in ye case nor will other appeare to this Hon^d. Court by ye Evidences on file.

3. It doth appeare y^t y^r. business was to feast to gether wch was most [ing] the expence of ye students time & estate not only of him y^t belonged to ye chamber where he was, but also of others y^t were drawne from their own chambers & studyes to accompany him which is directly The breach of that Law Tit. Children & youth.

4. From ye aggravating circumstances in the case, Its as apparent y^t the plantiff was not only a Companion of & partaker with theivs in his feasting with y^m this last winter, but did also conceale y^r Theft & with discouraging words retarded the confession of ye Company, and that they made ye Colledge at least one place where they met together & kept their Randevous

All wch having an inevitable Tendency not only to ye expence of ye schollars time & estate but also to great debauchery & profaneness wch cannot but be a great greif as well to parents as the Hon^d Overseers of s^d. Society: rendring thereby ye Industry of pious & industrious Tutors to be ineffectuall & utterly frustrating the good designs of Parents y^t wth great care & charge do there mainteyne y^r Children

The case came on before the Second Jury, and their original Verdict is the remaining document in the collection, on a narrow, irregular scrap of paper, like most of the others, brown with age, time-stained, and battered, in the stiff and rugged characters of the time. It reads as follows: —

Samuell Gibson plaintife against the Courts sentence.
The Jury Finds a Reversion of ye former sentence:

The final record [1] in the Court of Assistants, in the handwriting of Rawson, is as follows: —

At A Court of Assistants held at Boston, by the Gouno^r^ and Compn^y^ of the Massachusetts Bay in New England the first day of Septemb^r^ 1685.

Present.

Simon Bradstreet Esqr Gou^r^
Th^o^ Danforth, Esqr dep^t^ Gou^r^
Daniel Gookin Senr Esqr
Wm Stoughton
Nathaniel Saltonstall
Humphry Davy
John Richards
Samuel Nowell
James Russell
Samuel Apleton
Elisha Cooke
Wm Johnson
Jno Hathorne
Elisha Hutchinson
Samuel Seawall
} Esq^rs.^

. . . . persons Return^d^ to serve on ye 2^d^ Jury for tryalls of Appeales for life limbe &c sworne —
Mr Wm Clarke
Nathaniel Willjams
for Mr Edwd Broomfield
Benja Walker
John Fulle^r^ton
Anth^o^ Sprague
Jno Baxter
James Bird
Isack Newell
Th^o^ Fuller
Wm Rawson
Jn^o^than Phillips
Jn^o^than Brigham inst^d^
of Mr Clarke — when list [? was called].

Samuel Gibson plaintiff in an Action of Appeale from Cambridg Courts Sentence After the Courts Sentenc & Euidences in the Case produced were read Comitted to the Jury & are on file wth the Records of this Court the Jury brought in their virdict they found for the plaintiff Revercon of the Courts Sentenc.

[1] Records of the Court of Assistants, ii. 192, 193.

Thus the case ends before the Court of last resort in the Colony, — a tribunal august and imposing as an embodiment not so much of legal learning and judicial distinction, as of character, of rugged justice and practical wisdom, and of eminent public service, where the name of every magistrate, from that of the venerable Governor Bradstreet, "the Nestor of New England," at the head of the list down to that of Judge Sewall at its foot, is identified with the early life and history of Massachusetts.

Mr. HENRY H. EDES communicated an unpublished letter from the Hon. Nathan Dane to Judge Nathaniel Gorham, belonging to Miss Theodora Willard, of Cambridge, who has kindly allowed a copy of it to be taken for publication in the Transactions of this Society: —

NEW YORK June 6th 1787.

SIR,

I had the pleasure, yesterday, of receiving yours of the 3d inst. I am very glad the Convention [1] come fully into the determination of dividing the powers of Government, and of lodging them in distinct and independant hands as Nature seems always to have intended, &c. but in what hands to lodge the Legislative and executive powers so as to collect in the federal Government the greatest strength and stability, and general Confidence, is a work, I think, the Convention will find of vast consideration.

I inclose you, Sir, two Boston papers [2] by which you will see how the General Court appeared for the first — in the house 216 members, 156 of them marked with the sign of new Comers. You perhaps may know many of the characters. I find it difficult to recollect hardly any proportion of them — there will in a few days probably be 250 or 260 members in the House — and I believe no man can tell what direction they may take.

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[1] The Convention which framed the Constitution of the United States met in Philadelphia 14 May, 1787, but a majority of the States not being represented the members adjourned, from day to day, until the twenty-fifth of the month, when an organization was effected and Washington was chosen President of that august body.

[2] Probably the Independent Chronicle of 31 May, 1787, and the Columbian Centinel of 2 June, 1787, which contain lists of the members of the General Court in which the "new Comers" are indicated.

We have in Congress[1] only four States and two halves. Dr Holten, Jun[2] is in the Legislature, but I hear nothing from him respecting his coming on to N. York. I have nothing particular to communicate, nothing of any consequence from the Eastward.

With great esteem & respect
I am Your friend & Hum. servant
N. DANE.

HON. N. GORHAM[3] ESQR

Mr. EDES then called the attention of the Society to the Tablet placed to-day over the State Street entrance of the new structure now being erected at the southeasterly corner of Devonshire Street, commemorating the fact that the first Meeting-House in Boston was built in 1632 on that spot.

Mr. ANDREW MCFARLAND DAVIS communicated the following information respecting a number of Historical Societies in Massachusetts not heretofore reported: —

THE NORTH BROOKFIELD HISTORICAL SOCIETY.

A Society with this name was formed in 1864. The Hon. Charles Adams, Jr., was elected Corresponding Secretary and Librarian. The Society collected materials relative to the history of the Town, which proved useful when the point was reached that the Town was ready to publish them. This was done in 1887, and

[1] Nathan Dane, the writer of this letter, was at this time an able and influential member of the Old Congress then sitting in New York.

[2] Dr. Samuel Holten, of Danvers.

[3] Judge Gorham was born in May, 1738, in Charlestown, Massachusetts, where he died 11 June, 1796. He was the most distinguished man who ever lived in Charlestown, where he was universally honored. Besides his judicial honors, Judge Gorham sat in the House, of which he was Speaker, in the Provincial Congress, the Board of War, the State Constitutional Convention of 1779, and the Old Congress, of which he was President. In the Convention which framed the Federal Constitution he took high rank, was chosen Chairman of the Committee of the Whole, presided over the Convention in Washington's absence, and was put on important committees, including that to which the Resolutions of the Convention were referred, in July, for the purpose of draughting a Constitution. Judge Gorham subsequently exerted a powerful influence in securing the adoption of the Federal Constitution by Massachusetts.

in an Introductory Note the Committee of the Town having the publication of the History in charge acknowledged their obligation to the Society.

THE NEW ENGLAND NUMISMATIC AND ARCHÆOLOGICAL SOCIETY.

This organization, formed in 1870, is no longer in existence. It published the earlier numbers of a series of papers by Sylvester S. Crosby on the early coins of America and the laws governing their issue.

THE BUNKER HILL HISTORICAL SOCIETY.

This Society was organized 25 April, 1896. Article II. of the Constitution is as follows: —

"The Objects of this Society are to preserve in memory the historical facts of the American Revolution — the patriotic deeds of our ancestors, to treasure the mementos thereof, and especially the mementos and facts of the Battle of Bunker Hill."

THE QUABOAG HISTORICAL SOCIETY.

This Society, the organization of which was announced in February, 1895 (*ante* p. 66), was incorporated 22 March, 1895. Its purposes, as defined in the Certificate of Incorporation, are "to collect and preserve all the historical matter relating to the 'Quaboag District,' so called, composed of the towns of North Brookfield, Brookfield, Warren, and New Braintree."

THE MONSON HISTORICAL SOCIETY.

This organization was incorporated 21 May, 1895. Its purposes are "the collection, preservation, illustration, and publication of all records and productions pertaining to the past, present, and future history of the Town of Monson."

METHUEN HISTORICAL SOCIETY.

Under this title a Society was incorporated 22 May, 1895, for "the prosecution of historical, antiquarian, and literary researches, and the acquisition and ownership of such real estate and personal property as may be necessary for the purposes above named."

FITCHBURG HISTORICAL SOCIETY.

The organization of this Society was announced in Vol. I., p. 61, of these Publications. It was incorporated 1 February, 1896. In the Certificate of Incorporation the purposes of the Society are defined to be —

"the prosecution of historical and antiquarian research, the collection and preservation of books, papers, and relics illustrating the history of Fitchburg and the neighboring towns, the publication from time to time of the results of such research, and the holding of such real estate as may be desirable for the purposes of the Society."

THE BILLERICA HISTORICAL SOCIETY.

This Society was incorporated 18 February, 1896, "for the collection and preservation of objects and facts of local or general historical interest, for the collection of historical relics, the consideration of historical events, the marking of historical locations in the town, and for any other purposes proper for a historical Society."[1]

FORT MASSACHUSETTS HISTORICAL SOCIETY.

A Society with this title was incorporated 9 April, 1896, "to purchase, preserve and improve the site within said Commonwealth of Fort Massachusetts, to collect and preserve books, documents and manuscripts relating to the early history of New England, and to gather and preserve relics possessing historical interest."

THE MEDFORD HISTORICAL SOCIETY.

Under this name a Society was incorporated 22 May, 1896. Its purposes are —

"to collect, preserve, and disseminate the local and general history of Medford and the genealogy of Medford families; to make antiquarian collections; to collect books of general history, genealogy, and biography; and to prepare, or cause to be prepared, from time to time, such papers and records relating to these subjects as may be of general interest to our citizens."

[1] The Society of Mayflower Descendents (*sic*) was incorporated 1 April, 1896 for patriotic, antiquarian, and historical purposes.

THE MANCHESTER HISTORICAL SOCIETY.

This Society, referred to in Vol. I., page 57, of our Publications, was incorporated 12 June, 1896. Its purposes are thus defined: —

"To discover, collect, and preserve such publications, manuscripts, pictures, memorials, and specimens as may illustrate local and general history, but particularly the annals and natural history of the Town of Manchester; to establish within the Town a Library and Museum in which such treasures as it may thus receive or procure shall be deposited and kept; and generally foster an interest in historical matters."

THE PEABODY HISTORICAL SOCIETY.

This Association was incorporated 17 August, 1896, for "the collection, preservation, and study of historical matter relating to the Town of Peabody and its inhabitants."

LITTLETON HISTORICAL SOCIETY.

A Society with this name was incorporated 30 October, 1896, "to collect and preserve manuscripts, printed books, pamphlets, historical facts, biographical anecdotes, and historical relics, and to stimulate research into local history."

THE TOWNSEND HISTORICAL SOCIETY.

This Society was incorporated 20 November, 1896, for the following purposes: —

"First. To collect and preserve manuscripts, letters, books, pamphlets, papers, facts, anecdotes, legends, etc., relating to the history of the Town of Townsend, Mass.

Second. To locate historical sites in said Town and caused (*sic*) to be placed thereon commemorative tablets or monuments.

Third. To stimulate research into the local history of said Town and its people."

The PRESIDENT announced that of the permanent Publication Fund which it is proposed to raise before the next Annual Meeting of the Society as a Memorial of Dr. Gould, more than Five thousand dollars had been already subscribed.

Mr. S. Lothrop Thorndike communicated a Memoir of the late President of the Society, Benjamin Apthorp Gould, LL.D., which he had been requested to prepare for publication in the Transactions.

Messrs. Louis Cabot, of Milton, and William Cushing Wait, of Medford, were elected Resident Members.

MEMOIR

OF

BENJAMIN APTHORP GOULD, LL.D.

BY

SAMUEL LOTHROP THORNDIKE.

THE memory of BENJAMIN APTHORP GOULD, already perpetuated in the records of the scientific world in which he was a shining light, deserves especial recognition in this Society, of which, without detraction from the praise due to his fellow-workers, he may fairly be called the chief Founder. This recognition has already been bestowed in the proceedings of our first meeting held after his death. The old recollections of classmates, the tender thoughts of neighbors and social friends, the tributes of associates in science, — all found place in those proceedings. It only remains to put upon our record, in succinct form, the story of his interesting and distinguished life.

Benjamin Apthorp Gould was born on 27 September, 1824, in Boston, at No. 5 Winthrop Place, a portion of the city now the centre of active business, but then a quiet and somewhat secluded place of residence. Near his father's house lived many families whose children Gould played with as a boy and counted among his friends in college and in later life.

He came, on both paternal and maternal sides, of old Colonial stock, his father being sixth in descent from Zaccheus Gould, who came to America about 1638, and his mother, Lucretia-Dana Goddard, daughter of Nathaniel and Lucretia (Dana) Goddard, being also sixth in descent from her first American ancestor. This connection with the early founders of New England was always a matter of interest to Gould, and he spent much time in preparing a genealogical history of his branch of the Gould family. When this was at last published, not long before his death, he said that

he had been at work upon it, off and on, for forty years. He also had great pleasure in the connection of his more immediate ancestors with the War of Independence, — his grandfather Gould having been a captain in the army, and his great-grandfather Goddard an officer attached to the commissary department of Massachusetts.

Gould's paternal grandfather, Captain Benjamin Gould, lived first in Topsfield, Massachusetts, the original seat of the family in America; afterwards, in Lancaster and in Newburyport. His wife was Grizzel Apthorp Flagg. He will be remembered by this Society as the subject of a little poem, The Scar of Lexington, written by his daughter, the well-known poetess of our childhood, Hannah Flagg Gould, and once read to us on an occasion of Revolutionary commemoration.

Gould's father, the elder Benjamin Apthorp Gould, graduated at Harvard College in the class of 1814, — a class presenting many noted names, among them those of President James Walker, Prescott, the historian, Justice Merrick, and the Rev. Dr. Greenwood. He was head-master of the Boston Latin School from graduation, — indeed from some months previous to graduation, having, after the fashion of the day, obtained leave of absence for the purpose, — until 1827. His health having failed, under stress of labor, he then spent some years in European travel. He passed the remainder of his life in active commercial pursuits as a ship-owner and India merchant. He had much reputation in his day as a scholar, and was the editor of various classical and educational works.

During his father's absence in Europe, Gould was left in the especial charge of his Aunt Hannah, in Newburyport. In the Sketch of his life, which he wrote for the volume entitled The Class of 1844, Harvard College, Fifty Years after Graduation,[1] he says that "all the memories of his early childhood until his seventh year are thus connected with that noted town and with the prominent men and women who were accustomed to visit his Aunt." In many of her poems, — among them The Scar of Lexington, above mentioned, — are allusions to the child left in her tender care.

[1] This Sketch proved too long for full insertion in the volume referred to, and with Gould's entire approval considerable portions were omitted in printing. The original Sketch has been in the hands of the present writer.

After the return of the family to Winthrop Place, Gould passed two years at the Chauncy Hall School of Mr. Gideon French Thayer, and one at Mr. Henry White Pickering's.[1] He was also, for three months, at the Framingham Academy, of which the Rev. Jacob Caldwell was master. In 1836, he entered the Boston Latin School, of which Charles Knapp Dillaway was then master.[2] Mr. Dillaway was succeeded, in December of that year, by Mr. Epes Sargent Dixwell, and under him Gould was prepared for college. He might easily have been ready for college in 1839, but on account of his youth his father thought it best that he should remain at school another year. In 1840 he received a Franklin Medal. His College Class was that entering Harvard in 1840 and graduating in 1844.

In college he attained distinction in Mathematics and Physics, and his general scholarship was such as to entitle him to the honor of membership of the Phi Beta Kappa. He speaks of himself as working hard, but not with sufficient regard to college routine; as giving far too great a proportion of his attention to the studies of his predilection; as not getting on well with Channing, the Professor of Rhetoric and Oratory; as not being permitted to deliver his Commencement Part for want of declamatory ability, etc. We can hardly join in the regrets that he expresses at all this, when we consider for how much those studies of his predilection counted in after life. That he was cut off from his Commencement Part will easily be understood by all who ever knew him. Often as he was obliged in later life to take part in oral discussion, and excellently as he acquitted himself in more languages than one, he never got used to it. To be called upon to say ten sentences upon his legs was a matter of most intense trial and anxiety.

In this connection and in view of Gould's subsequent choice of a profession, it is worth mentioning as an evidence of his remarkable versatility, that the earliest "studies of his predilection" were not mathematical. His classmates Sears and Wheelwright both testify to this, the former giving a charming account of walks in the Freshman year, Gould spouting whole pages of Homer and Virgil, odes of Horace, and scenes of Terence. His Junior Exhi-

[1] This school was kept in a building which stood at the northwesterly corner of Kingston and Bedford Streets.

[2] In the printed Catalogue of the Boston Latin School Gould appears as entering in 1835. This is surely wrong, and must signify that he entered the class entitled of that year.

bition Part was a Greek version. This love for the classics lasted through life, and his retentive memory kept these Latin and Greek stores always available to the end. He also retained his belief in the classics as a foundation for liberal education, and in what is really implied by the degrees in Arts which our universities confer. At a late period of life he gave his reason for the faith that was in him in an excellent speech before the Boston Latin School Association and in his printed answer to a question upon the advisability of retaining Greek as a condition of admission to college. The change in the chief bent of his study and thought is attributed to the enthusiasm excited in his mind by the proceedings of the British Association for the Advancement of Science; and his Senior Exhibition Part, a Disquisition upon that learned body, was the first fruits of this enthusiasm. It must, however, be said that even during the earlier time, when the classics seemed his chief devotion, the astronomical tendency cropped out now and then. His classmate Capen tells of once finding him, in the Freshman year, hard at work in his room upon an attempt to compute the elements of a comet which had just appeared.

His pecuniary means in college were straitened in consequence of his father's delayed success as a merchant. He taught school at Lexington in the winter of the Junior and Senior years, and he left college early on leave of absence, as his father had done before him, to take charge of the Roxbury Latin School. His service here was successful but short. At the end of a year he was able to enter upon the pursuit which was thenceforward to be the aim and devotion of his life. He started for Europe in July, 1845, to study Astronomy.

Armed with letters from Ex-President John Quincy Adams and Professor Peirce, he presented himself at Greenwich to Airy, the Astronomer Royal. Professor Airy received him with great kindness, gave him access to the Royal Observatory at all hours, and every facility for learning its routine and the management of its instruments. He also put him in relations with leading astronomers and scientific men, and when, at the end of three months, Gould wished to pass on to Paris, to study the instruments and methods of the Observatory there, Airy furnished him with letters to Arago, Mathieu, and Biot, which gained him the same advantages he had had in England.

Gould spent four months in Paris, working mainly under Faye, already distinguished by the discovery of the Comet which bears his name. But, interesting as he found the science of France and England, it was to Germany that he especially looked for what would be of advantage to him, and it was there that he found the teachers and exemplars that suited him best and laid a fit foundation for the work that was to come. He went first to Berlin, where our minister, Mr. Wheaton, secured him a position in the Observatory under Encke, and where he was present when the planet Neptune was discovered, on 23 September, 1846. Here he remained more than a year. Alexander von Humboldt, whose chief pleasure was in aiding promising students of science, then secured for him the rarely obtained privilege of becoming a private pupil of Gauss, at Göttingen. He remained here for a year or more, taking his Doctorate of Philosophy at the University in 1848. His residence here was interrupted during the early part of 1848 by a severe illness, which made it necessary for him to seek a warmer climate. It thus happened that, during a short stay in Italy and his return journey to Germany, he witnessed many of the events of that year of revolution at Naples, Florence, Venice, Vienna, Prague, Dresden, and Berlin. After leaving Göttingen, he spent some months at the Observatories of Altona, Gotha, and Pulkowa, and then started homeward. "In Paris," he writes in the Sketch for his Class, he "found Arago a member of the Provisional Government, and was accidentally present at the Constituent Assembly when Louis Napoleon, who had been chosen a delegate, entered the body unexpectedly, took his oath of fidelity to the new Republic, read an Address pledging himself to unswerving allegiance to democratic institutions, and took his seat among the members on the extreme Left."

Gould reached home in December, 1848, full of zeal for setting the astronomical scholarship of America in its fit place as a rival to that of Germany. But opportunity does not come at once, and he supported himself for two years by giving lessons in Cambridge in French, German, and Mathematics. At this time he, with our associate Professor George Martin Lane, who had been his fellow-student at Göttingen, and Professor Josiah Dwight Whitney, who had been his fellow-student at Berlin, formed a bachelor household, which lasted for many years, and will be

delightfully remembered by the *habitués* of Cambridge during that period.

It was at this time of comparative inactivity and waiting that Gauss, his old master and friend, offered him the chair of Astronomy and the direction of the Observatory at Göttingen. Peirce and Agassiz both advised him to accept the distinguished position. But that would be to break the ideal plan of his life. He had educated himself, and now was determined to work, for the elevation of Astronomy in America, not in Germany, and Gauss's invitation, however tempting and honorable, was declined.

In 1849, Gould established the Astronomical Journal, to enable American astronomers to publish in their own country their original investigations. This he edited and supported until it was interrupted, first by the Civil War, and afterwards by his absence in Cordoba. In 1886 it was resumed after an interval of twenty-five years, and his will makes provision for its continuance.

In 1852 Dr. Gould received his first public employment. He was appointed to the charge of the longitude determinations of the United States Coast Survey. In this service he continued until 1867, accompanying the surveying parties to the field until they were trained to their work. During this period he passed many winters in Southern cities, and carried a chain of longitude determinations from Greenwich to New Orleans, much of the work being accomplished before anything of the kind was undertaken in Europe.

In 1855 he was appointed Director of the Dudley Observatory at Albany. This he equipped, organized, and carried on for four years without remuneration, during the last year residing personally in Albany. He left the Observatory in 1859, after a contest with some of the Trustees, which was one of the severest trials of his life. His attempt to preserve the institution for purposes of scientific investigation was unsuccessful, although, as he truly stated, "he was supported and his course approved by the chief citizens of Albany and by the body of scientific men throughout the country."

"The death of his father, in October, 1859," he relates in the Sketch already mentioned, "rendered it imperative for him to take charge of his business as executor; and the peculiar state of commercial relations at the time entailed the necessity of continuing

the business for four years and upwards. This having been successfully accomplished, he returned to astronomical studies, which had never been entirely interrupted."

It was at this time that the greatest happiness of his life came to him. On 29 October, 1861, he married Mary-Apthorp, daughter of the Hon. Josiah (H. C., 1821) and Mary-Jane (Miller) Quincy. The ideal beauty of this union of twenty-two years with this lovely and brilliant woman could not be better portrayed than in the pathetic words which he prefixed to the Zone Catalogue just completed at her death, and which were quoted by one of the speakers at our commemorative proceedings. During this period also, the versatility of the man, to which allusion has often been made, appeared most strikingly. While vigorously and successfully occupied in unravelling and settling the complicated mercantile affairs of his father's estate, he was still busy with his scientific work. This, as he says, had never been entirely interrupted. His labor upon the Coast Survey continued, and in 1862 he was appointed to compute the astronomical observations of the Washington Observatory which had never been reduced, and which had been found, after Maury's treason and flight, to comprise five-sixths of all that had ever been made. In 1862–63 he was also active in promoting the establishment by Congress of the National Academy of Sciences. The first memoir published by the Academy was prepared by Gould, being a reduction of observations of fixed stars made by D'Agelet at Paris in the last century, and being in the estimation of Argelander the most important contribution to Astronomy that America had made.

In 1864 he was made Actuary of the United States Sanitary Commission, his main function being to collect from measurements in the field, and from the records of the State Adjutant-Generals' offices, material regarding the physical characteristics of our soldiers. The results were afterwards published by the Commission in an important volume entitled Investigations in the Military and Anthropological Statistics of American Soldiers, embodying much valuable information upon the laws of human growth and the relations of stature, weight, strength, and bodily proportion.

Gould's next service to science was an offer of assistance, in February, 1866, to Lewis M. Rutherfurd in reducing the results

of his improved methods of stellar photography to the form which would be given by ordinary observation. The offer was cordially accepted, and the photographs of the Pleiades were thus computed and the results presented to the National Academy in August, 1866. In 1870 a second memoir was presented by him to the National Academy, giving analogous determinations of the cluster Præsepe.

In August, 1866, soon after the establishment of the Transatlantic Cable, he left home for his last important service upon the Coast Survey. This was the determination of the differences of longitude between Valencia in Ireland and the American continent on the one hand, and the Greenwich Observatory on the other, thus bringing the whole American system into relation with that of Europe. This work was finished early in 1867.

One other piece of work which Gould managed to interpolate into the engrossing labors of the last three years must not be forgotten. In 1864 he had built a small observatory in Cambridge, and until 1867 he occupied himself, in the intervals of other work, in the determination of the right ascension of stars nearest the pole to the tenth magnitude.

For some years Gould had been impressed with a desire to explore the Southern celestial hemisphere, of which the examination had hitherto been very imperfect. This desire was intensified by his interest in the photographic operations upon which he had lately been busy, especially in their capacity for precise determination of stars much below the ordinary limit of visibility. His idea first took shape in a project for a three-years expedition to Cordoba in the Argentine Republic, but as then situated he could not announce this project at once. He however made some inquiries of Sarmiento, the Argentine minister in Washington, and received a cordial and encouraging response. He then went so far, after getting the promise of pecuniary assistance from a few friends to whom he communicated his desire, as to confer with the artists Repsold upon plans for a meridian circle, the most essential instrument. This was at the time of his longitude expedition to England, in 1866.

In 1868 Sarmiento became President of the Argentine Republic, and the proposed expedition took shape, by his promotion, as a National Observatory. The most necessary instruments were

procured and forwarded as soon as possible, including the same photographic telescope by which the observations were taken which Gould had previously computed for Rutherfurd, and the meridian circle upon which the Repsolds had spent three years.

On 28 May, 1870, Gould embarked with his family. Proceeding by way of Europe, he made short visits to Hamburg, Berlin, and Paris, and reached Buenos Ayres in August. The task of constructing and organizing the Observatory necessarily took a long time, and it was not until September, 1872, that the operations could be commenced which would furnish the material for his *Magnum Opus*, the chief occupation, indeed, of the remainder of his life.

The residence at Cordoba lasted, with some interruptions, until 1885. The history of his work there has been sufficiently told in scientific records, and its importance so amply described that it needs no further recounting here.

The first of the interruptions to his sojourn in Cordoba was caused in February, 1874, by a dreadful calamity. His two elder children were accidentally drowned. His energies were for a time prostrated. He returned with his wife to the United States, that the quiet of home and of old friendships might do what it could to relieve and repair the shock. On 22 June, however, he consented to a public welcome, and gave an account, afterwards printed, of what had been accomplished at Cordoba down to that time. Other short home visits occurred in 1876 and 1880, and a fourth in 1883, when his classmates and friends gave a Dinner in his honor. During this visit he suffered the saddest bereavement of his life. His beloved wife died at Quincy on the twenty-third of June. It was hard to return to Cordoba without her, for her presence there had been the constant support and encouragement of his labors. But the work was still unfinished, and he went back alone, leaving his children here in the care of others.

At last, on 14 April, 1885, he came home to stay, bringing with him unstrung nerves and broken health, but all the materials for his great work complete. On the sixth of May a public Dinner was given him at the Hotel Vendôme. The Hon. Leverett Saltonstall, his classmate and lifelong friend, presided. Most of his surviving classmates were there, as well as many of his older and younger friends. Dr. Gould gave a summary of his work at

Cordoba; speeches were made by President Eliot and others; and Dr. Oliver Wendell Holmes read a charming poem, since printed as "A Welcome to Dr. Benjamin Apthorp Gould on his Return from South America, after Fifteen Years devoted to Cataloguing the Stars of the Southern Hemisphere." Space permits the quotation of only a few of the verses: —

"Once more Orion and the sister Seven
Look on thee from the skies that hailed thy birth, —
How shall we welcome thee, whose home was heaven,
From thy celestial wanderings back to earth?

"Science has kept her midnight taper burning
To greet thy coming with its vestal flame;
Friendship has murmured, 'When art thou returning?'
'Not yet! Not yet!' the answering message came.

"Thine was unstinted zeal, unchilled devotion,
While the blue realm had kingdoms to explore, —
Patience, like his who ploughed the unfurrowed ocean,
Till o'er its margin loomed San Salvador.

. . . . . .

"Fresh from the spangled vault's o'erarching splendor,
Thy lonely pillar, thy revolving dome,
In heartfelt accents, proud, rejoicing, tender,
We bid thee welcome to thine earthly home!"

The reduction of the materials collected at Cordoba into condition for publication was the chief occupation of the remaining twelve years of Dr. Gould's busy life. To this labor must be added the resumption and continuance of his Astronomical Journal. He also writes to his Class Secretary that "sundry investigations, unfinished at the time of his departure in 1870, are gradually being unearthed from their long sepulture, in the hope that they may yet be brought to a conclusion." The indomitable will, the persistency and the cheerfulness which, in spite of shattered health, still carried him through these occupations are familiar to all who knew him in his later days. But the task grew harder as the years went on, and as possible working-hours were cut short; and it was made still more severe by the necessity of preparing the text of the volumes embodying the results of the Argentine Observations not only in his own tongue, but in Spanish, — a language no longer in daily use with him.

His pleasant life in Cambridge and his presence at various public celebrations and private gatherings have been sufficiently mentioned in the remarks of the speakers at our December Meeting. His constant attendance at scientific meetings on both sides of the water is also noteworthy; among them the Annual Meetings in Paris of the International Committee of Weights and Measures, upon which he served first as member for the Argentine Republic and afterwards as member for the United States, and in which he took great interest. It is remarkable that he found time for the various duties, whether of science or friendship, which he assumed; but he had the admirable faculty, so far as his health permitted, of making every minute tell. He was rarely absent from meetings of the American Academy, and of the National Academy of Sciences; and he served as President of the American Metrological Society.

His interest, already mentioned, in the events of our War of Independence attached him strongly to the Society of the Cincinnati and the Bunker Hill Monument Association, of both which bodies he was a Vice-President, and in the latter already named as the next successor to the Presidency. He was also a member of the American Antiquarian Society. His invaluable services to The Colonial Society of Massachusetts need not be here recounted; they appear upon our Records.

A good deal might be added to what has already been said about the wide range of Dr. Gould's study and acquirement outside of his chosen profession. Perhaps one instance will suffice. On a visit which he made me in the country in the last summer of his life the conversation turned upon the flora, especially the trees, of my neighborhood in Middlesex. I found that he knew far more about them than I did. In answer, possibly, to some look of surprise upon my face, he said lightly, "Yes, at one time in my life I came near being a botanist instead of an astronomer."

One prominent feature of Dr. Gould's life must not be passed over, — his earnest and steadfast adherence to the Unitarian faith. Mr. Sears has spoken of the effect which Dr. Walker's powerful preaching had upon Gould in his college days. The habit of mind, not perhaps then first born, but certainly happily cultivated, continued. While in health he was rarely absent on Sunday from his pew in the First Church in Cambridge; and he was a constant attendant at the meetings of the Unitarian Club.

His well known devotion to Free Masonry deserves a passing mention. He was fond of this Institution not merely for its antiquity, but because of its quality of good fellowship between men of widely different classes, its ignoring of ordinary class distinctions, whether political, religious, or social. All this was quite in line with the fondness, of which our Resolutions speak, for keeping up his association with many varieties of men. He held high Masonic rank, was for two years Deputy Grand Master of the Grand Lodge of Massachusetts, and for eleven years Special Representative of the highest Masonic body in the Northern United States to the corresponding body in the Argentine Republic.

Dr. Gould's health, always precarious after his return from Cordoba, was further shattered by an attack of grippe in the winter and spring of 1895. In the following summer he was thrown down in Boston by a runaway team. From the lameness and insecurity of foot caused by this accident he never recovered. On the evening of Thanksgiving Day, 26 November, 1896, he stumbled and fell as he was descending the stairs in his own house to go into Boston to dine with his married daughter. His consciousness returned only imperfectly after the fall. Within a few hours this life, which had been so busy, ended quietly and apparently without pain. He had, in effect, finished all that he had set himself to do. His solicitude to complete his great work entitled "Cordoba Photographs" had been gratified, and it will be given to the world as it came from his hand.

It would be pleasant, did space permit, to speak more fully of Dr. Gould's connection with the history of his beloved science both in Europe and America, of his intimate relations and correspondence with great astronomers of three generations, and of his influence upon the present and the future of American Astronomy. But all this has been done by his and our friend and associate, Dr. Seth C. Chandler, in an admirable sketch in the Harvard Graduates' Magazine for March, 1897.

The record of Dr. Gould's life and character would not be complete without mention of his social quality and the cordiality of his friendship. In familiar intercourse he was one of the most engaging of companions, brilliant in conversation, sparkling with good things, and receptive of the good things of others, — like Falstaff, not only witty in himself but the cause that wit was in other men.

Then, too, he never forgot what he had read, and from the vast storehouse of his memory, scraps of curious learning and amusement were always dropping. The fervor of his reception of a classmate, a neighbor, a brother of the lodge, a fellow member of a society, was something only to be felt or seen to be admired. This universal warmth of greeting is with certain men a superficial trait of manner, inducing suspicion rather than reciprocation. With Dr. Gould it was a simple token of hearty good-feeling and sincerity. By the world at large his memory will be preserved in honor and renown. By those who knew him best, by his intimate associates, among whom we are proud to count ourselves, it will be cherished with affection and regret.

The principal degrees and honors received by Dr. Gould in Europe and America are as follows: A. B. Harvard 1844; A. M. Harvard 1847; Ph.D. Göttingen 1848; LL.D. Harvard 1885, Columbia 1887; Master Roxbury Latin School; Honorary Professor University of the Argentine Republic; Fellow University of Chile; Director Dudley Observatory, Albany, and Astronomical Observatory, Argentine Republic; Fellow American Academy; Member American Philosophical Society, and National Academy of Sciences; Fellow Royal Society (London); Honorary Member Astronomische Gesellschaft (Leipsic); Associate Honorary Member Royal Meteorological Society (London), and Royal Astronomical Society (London); Corresponding Member Academy of Sciences (Institut de France), Académie Impériale des Sciences (St. Petersburg), Königliche Akademie der Wissenschaften (Berlin), Königliche Gesellschaft der Wissenschaften (Göttingen), Kaiserliche Akademie der Wissenschaften (Vienna), and Bureau des Longitudes (Paris); Knight Order for Merit (Prussia).

Dr. Gould's two elder children, Susan-Morton-Quincy, born 26 August, 1862, and Lucretia-Goddard, born 20 November, 1864, perished 8 February, 1874, in the accident already mentioned. His surviving children are Alice-Bache, born 5 January, 1868; Benjamin-Apthorp, born 8 February, 1870 (H. C. 1891); and Mary-Quincy, born 16 April, 1872, married 31 December, 1895, to Albert Thorndike (H. C. 1881).

SPECIAL MEETING OF THE COUNCIL,

15 May, 1897.

A Special Meeting of the Council was held on Saturday, 15 May, 1897, at half-past ten o'clock in the forenoon, to take action upon the death of the late First Vice-President of the Society, the Hon. John Lowell, LL.D., who died on Friday morning.

Present, Messrs. Henry Winchester Cunningham, Andrew McFarland Davis, Henry Herbert Edes, Philip Howes Sears, and Henry Ernest Woods.

Mr. Philip H. Sears occupied the chair.

The following is an extract from the Records of the Meeting: —

Our Records show that it is now about five and one half months since the Hon. John Lowell, our First Vice-President, occupied the Chair, at a Special Meeting of the Council called to take action upon the death of the late President of the Society, Benjamin Apthorp Gould. We are now assembled to pay our tribute to the memory of him who presided over that meeting. The knowledge of his death comes to us with preliminary warning, and this, taken in connection with the peaceful manner in which he passed away, moderates the acuteness of the pangs of separation and renders more prominent our feelings of gratitude that he was spared to us long enough to testify in so many ways his sympathy with our work.

His name succeeds that of Dr. Gould in the List of Members of this Society, inscribed in the order of their enrolment. He was elected First Vice-President at the first election of the Society and continuously held that office to the time of his death. It seemed to afford him pleasure to respond when circumstances compelled us to call upon him to fill the Chair.

His career was completely rounded out when he inscribed his name as one of the Founders of this Society. His distinction as a Judge had almost eclipsed his fame as a practitioner at the Bar. His days of activity were over, and although he remained in practice in order that he might have the mental occupation essential for one of his habits, yet he sought a class of work which did not make too great demands upon his strength. He did not escape, however, from claims for his service

occasioned by the probity of his character and his eminence as a lawyer. At the time of his death he was President of the Trustees of the Peabody Fund and was Chairman of the Special Commission upon the Revision of the Taxation Laws of Massachusetts. He bore an honored name, and the record of his life has added to the responsibilities of those who shall bear it hereafter.

Simple in manners and easy of access, he was frank, straight-forward, and downright in statement, and conspicuously upright and just in character. He had a strong mixture of humor in his composition, of which he could avail himself upon occasion, and consequently was sought as an after-dinner speaker. Combined with this was an innate modesty of temperament which prevented him from making full use of the powers which he possessed in this direction.

The last time that he presided over the Society was at our February Meeting, when he inducted our President into office. We can but be grateful for the interest that he then took in our affairs, which taught us then that when we should lose him we should lose not only a man whose name added distinction to the Society, but a well-wisher and a friend.

Voted: That the foregoing be adopted and spread upon the Minutes of the Council; and that an attested copy be sent to the family of Judge Lowell.

Voted: That the Council will attend, as a body, the funeral of this eminent jurist and faithful officer.

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